

STATE OF WISCONSIN : CIRCUIT COURT : MANITOWOC COUNTY  
BRANCH 3

STATE OF WISCONSIN,

PLAINTIFF,

JURY TRIAL  
TRIAL DAY 7

vs.

Case No. 06 CF 88

BRENDAN R. DASSEY,

DEFENDANT.

**DATE:** APRIL 23, 2007

**BEFORE:** HON. JEROME L. FOX  
Circuit Court Judge

**APPEARANCES:**

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

THOMAS 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 (Reconvened at 8:34 A.M. Jury out)

2 THE COURT: Good morning, ladies and

3 gentlemen, Counsel. This is State of Wisconsin vs.

4 Brendan Dassey, 06 CF 88. Appearances, please.

5 ATTORNEY FALLON: Good morning, Your Honor.

6 May it please the Court, the State continues in its

7 appearance by Special Prosecutors Ken Kratz, Norm

8 Gahn, Tom Fallon.

9 ATTORNEY FREMGEN: Attorney Mark Fremgen

10 appears with Attorney Ray Edelstein. The defendant

11 appears in person.

12 THE COURT: Are you set to proceed, uh,

13 Mr. Fremgen?

14 ATTORNEY FREMGEN: Yes, Judge, we, uh -- at

15 this time our first witness will be the defendant,

16 but we need the Court to proceed with the colloquy

17 with Mr. Dassey to ensure that, um, he is making the

18 decision freely, voluntarily to testify.

19 THE COURT: All right. If you'd move the

20 microphone over there. Mr. Dassey, can you hear me?

21 THE DEFENDANT: Yes.

22 THE COURT: Uh, it's my understanding you

23 wish to testify?

24 THE DEFENDANT: Yes.

25 THE COURT: You understand that you have a

1 constitutional right to testify?

2 THE DEFENDANT: Yes.

3 THE COURT: You have a constitutional right  
4 not to testify?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you understand that  
7 decision, whether or not to testify, is for you, and  
8 you alone, to make?

9 THE DEFENDANT: Yes.

10 THE COURT: That doesn't mean that you  
11 can't get advice from family, from friends, from  
12 your lawyers, but you understand, in the end, it's  
13 your decision?

14 THE DEFENDANT: Yes.

15 THE COURT: Has anyone made any threats or  
16 promises to you in an attempt to influence your  
17 decision?

18 THE DEFENDANT: No.

19 THE COURT: Have you discussed your  
20 decision, whether or not to testify, with your  
21 lawyers?

22 THE DEFENDANT: Yes.

23 THE COURT: Have you made a decision as to  
24 whether or not you want to testify?

25 THE DEFENDANT: Yeah.

1 THE COURT: What is that decision?

2 THE DEFENDANT: That I want to.

3 THE COURT: You want to testify?

4 THE DEFENDANT: Yeah.

5 THE COURT: All right. Uh, let me address  
6 counsel. Mr. Fremgen, have you had sufficient  
7 opportunity to thoroughly discuss with your client,  
8 uh, the case and his decision whether or not to  
9 testify?

10 ATTORNEY FREMGEN: I can say for the record  
11 that we have spoken at least a half dozen times,  
12 specifically, on that one issue. Um, and  
13 recently -- as recently as yesterday.

14 THE COURT: Are you convinced that he  
15 understands the implications of him testifying and  
16 not testifying?

17 ATTORNEY FREMGEN: I believe so.

18 THE COURT: Are you satisfied that the  
19 decision he announced on the record here is being  
20 made knowingly, intelligently and voluntarily?

21 ATTORNEY FREMGEN: I don't know if I can  
22 answer that question, Judge.

23 THE COURT: Well, is --

24 ATTORNEY FREMGEN: I believe he's -- I'm  
25 sorry. I believe he knows what he's doing and I

1 believe he's voluntarily agreeing to do it.

2 THE COURT: All right. So it's knowingly  
3 and voluntarily being made?

4 ATTORNEY FREMGEN: Yes, Judge.

5 THE COURT: You're -- you're suggesting  
6 that, uh, it is being made by him, and him alone,  
7 in this instance?

8 ATTORNEY FREMGEN: That I don't know if I  
9 can answer either.

10 THE COURT: All right. The Court will  
11 find, based on this record, that the, uh, decision  
12 of this defendant to testify is being made, uh,  
13 knowingly and voluntarily. The Court has, uh, had a  
14 colloquy with him. The Court, uh, uh, believes that  
15 the defendant has -- has made this decision, realize  
16 it's his alone to make -- before I go through this,  
17 Counsel?

18 ATTORNEY KRATZ: Given Mr. Fremgen's,  
19 um --

20 THE COURT: Reticence?

21 ATTORNEY KRATZ: -- reticence, uh,  
22 perhaps, uh, the Court should inquire of  
23 Mr. Dassey if -- if there isn't something else,  
24 or if there, uh, uh, isn't an explanation for --  
25 for that. Our concern, as you know, Judge, is to

1 make this complete record. Uh, if the Court is,  
2 uh, reluctant to do so, I certainly understand  
3 that, but that was our -- our, um --

4 THE COURT: I -- I understand, uh, the  
5 State's concern. Mr. Fremgen has positively averred  
6 that the decision is being made knowingly and  
7 voluntarily. I've gone through the colloquy with --  
8 with Mr. Dassey. I -- I don't know at this stage,  
9 uh, absent, uh, getting into matters that, uh, I  
10 have no business inquiring in, I can be doing.

11 ATTORNEY FREMGEN: If -- if I can add,  
12 Judge --

13 THE COURT: Go ahead.

14 ATTORNEY FREMGEN: -- you -- you had asked  
15 if I thought this was an intelligent decision?

16 THE COURT: Correct.

17 ATTORNEY FREMGEN: And -- and not that  
18 intelligence is different, viewed from -- from a  
19 legal standpoint than common sense, I -- I don't  
20 know if I can honestly say that if there -- if -- if  
21 it's being made based upon, um, reasonable and  
22 logical, uh, decision-making.

23 And the Court also inquired as to  
24 whether Mr. Dassey has talked to others besides  
25 ourselves.



1 THE COURT: Right.

2 ATTORNEY FREMGEN: And I'm sure he has. In  
3 fact, I know he has. And, for that reason, I can't  
4 say for certain that the decision is solely his. I  
5 can say to you -- to this Court, that he has told us  
6 this is his decision, and he wishes to pursue  
7 testifying.

8 THE COURT: Well, let me, then, reask  
9 Mr. Dassey. Would you pull the microphone over  
10 there? Mr. Dassey, I've told you that, in the end,  
11 this decision is yours, and yours alone, to make;  
12 correct?

13 THE DEFENDANT: Yes.

14 THE COURT: And you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: Uh, you've talked to other  
17 people about this other than your lawyers?

18 THE DEFENDANT: Yes.

19 THE COURT: Uh, have those -- are you being  
20 forced to do this in any way do you feel?

21 THE DEFENDANT: No.

22 THE COURT: You're doing this voluntarily?

23 THE DEFENDANT: Yes.

24 THE COURT: You understand there may be  
25 some risks to your testifying?

1 THE DEFENDANT: Yeah.

2 THE COURT: And you're willing to take  
3 those risks in testifying?

4 THE DEFENDANT: Yes.

5 THE COURT: No one's promised you anything  
6 in order to get you to do this?

7 THE DEFENDANT: No.

8 THE COURT: You're not threatened in any  
9 way?

10 THE DEFENDANT: No.

11 THE COURT: And this is -- in the end, it  
12 is your decision; is that correct?

13 THE DEFENDANT: Yes.

14 ATTORNEY KRATZ: That -- that's fine,  
15 Judge. Thank you.

16 THE COURT: Yeah. I don't know where else  
17 we can go here. So, let's, uh -- we'll get the jury  
18 in and let's proceed.

19 ATTORNEY KRATZ: There's one -- one  
20 other thing, Judge. The, uh -- as long as the  
21 jury is out, I had promised the Court and, uh,  
22 Madam Clerk that, uh, there was a videotape clip  
23 of an answering machine that I -- that I think  
24 was on the first day of testimony, that we would  
25 have a copy of that made and marked to make, uh,

1 part of the record. Over the weekend, we've had  
2 an opportunity to make a copy of that, and I just  
3 wanted to complete the record by providing a copy  
4 of that, uh, uh, clip as I had promised early on.

5 THE COURT: Had we previously marked it as  
6 an exhibit?

7 ATTORNEY KRATZ: No.

8 THE CLERK: No.

9 THE COURT: All right. So this will be  
10 Exhibit 225?

11 THE CLERK: Yes.

12 ATTORNEY KRATZ: That's all we have,  
13 Judge. Thank you.

14 THE COURT: All right. Specifically, it's  
15 an exhibit of -- it's a CD of a -- a --

16 THE CLERK: It's a CD of the answering  
17 machine --

18 THE COURT: All right.

19 THE CLERK: -- clip.

20 THE COURT: All right. We can bring the  
21 jury in, then.

22 THE CLERK: So that's received as --

23 THE COURT: Yeah.

24 (Jury in at 8:42 a.m.)

25 THE COURT: Morning ladies and gentlemen.

1 Be seated. Uh, you may proceed.

2 ATTORNEY FREMGEN: Judge, at this time  
3 we'll call Brendan Dassey.

4 THE CLERK: Please raise your right  
5 hand.

6 **BRENDAN DASSEY,**  
7 called as a witness herein, having been first duly  
8 sworn, was examined and testified as follows:

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

11 THE WITNESS: Brendan Dassey, D-a-s-s-e-y.

12 **DIRECT EXAMINATION**

13 BY ATTORNEY FREMGEN:

14 Q Morning, Brendan.

15 A Morning.

16 Q How old are you, Brendan?

17 A Seventeen.

18 Q Where were you living on October 31, 2005?

19 A With my mom.

20 Q Where, exactly, was that located?

21 A At 12930-A Avery Road.

22 Q What city is that in?

23 A Two Rivers.

24 Q And how long have you lived at that address?

25 A Six or seven years.

1 Q Now, there are others that live around you; is  
2 that right?  
3 A Yes.  
4 Q Is this all family?  
5 A Yes.  
6 Q Who -- who lived -- well, who all lived in that  
7 general area?  
8 A Me, my family, Steven, Chuckie, my grandma and  
9 grandpa --  
10 Q Who's Chuckie?  
11 A One of my uncles.  
12 Q Okay. So it was all family that lived in that  
13 area?  
14 A Yes.  
15 Q Was it adjacent to some property? A business?  
16 A Yes.  
17 Q What business was that?  
18 A The Avery Auto Salvage.  
19 Q Okay. Now you said that Steven, that's your  
20 uncle?  
21 A Yes.  
22 Q And he lived where, exactly, in relation to your  
23 house?  
24 A Next door.  
25 Q About how far next -- is next door from your

1 house?

2 A Few hundred -- hundred or two hundred or three

3 hundred yards away.

4 Q Do you know yards or feet? Do you know the

5 difference between the two?

6 A Not really.

7 Q Okay. Was it farther than a football field away

8 from you?

9 A No.

10 Q So less than a football field away from you?

11 A Yeah.

12 Q Now, who else lived in the house with you and

13 your mom?

14 A Me, my brother, my mom.

15 Q You said your brother or brothers?

16 A All three of them.

17 Q Okay. And who -- who are they? What are the

18 names?

19 A Bobby, Brian and Blaine.

20 Q So your mom and the four brothers all lived

21 there?

22 A Yes.

23 Q And how old is Blaine?

24 A Ten months older than me.

25 Q In rela -- in the house, in relation to where you

1           slept, where did he sleep?

2    A       In the same room.

3    Q       You guys shared a room?

4    A       Yes.

5    Q       What about Bobby? How old is Bobby?

6    A       Three years older.

7    Q       And did he also have a bedroom?

8    A       Yes.

9    Q       Did he share with anyone?

10   A       No.

11   Q       And -- and you said Brian also lived there?

12   A       Yes.

13   Q       And -- and where did he -- uh, how old is Brian?

14   A       Four years young -- older.

15   Q       So you're the youngest?

16   A       Yes.

17   Q       On October 31, 2005, were you attending school?

18   A       Yes.

19   Q       And where did you go to?

20   A       Mishicot High School.

21   Q       What level grade were you in?

22   A       At the time?

23   Q       Yes.

24   A       Tenth.

25   Q       Now, do you know what the difference between

1 mainstream and nonmainstream classes is?

2 A Yes.

3 Q Okay. Were you in the mainstream classes at

4 Mishicot or nonmainstream?

5 A In both.

6 Q Okay. So a little -- are some of them

7 nonmainstream?

8 A Yeah.

9 Q It's also -- is it also sometimes referred to as

10 "special education" class?

11 A Yes.

12 Q Okay. What kind of grades did you receive when

13 you were in school?

14 A Usually C's, D's and F's.

15 Q Did you belong to any clubs at school?

16 A No.

17 Q Any extracurricular activities at school?

18 A No.

19 Q Did you work while you were going to school?

20 A Can you repeat that?

21 Q Did you work while you were going to school?

22 A No.

23 Q So after school, what would you normally do?

24 A Usually play video games.

25 Q Where at?



1 A At home.

2 Q So on October 31, 2005, was it a normal day for  
3 you?

4 A Yes.

5 Q And by "normal", about what time would you get  
6 home -- get home from the school bus?

7 A Three forty-five.

8 Q And you did on that day as well?

9 A Yes.

10 Q Was anyone else with you on the bus that day?

11 A Just Blaine.

12 Q Is that normal, you and Blaine take the bus  
13 together?

14 A Yes.

15 Q Where does it drop you off at the, uh, um -- does  
16 it drop you off at your house?

17 A No.

18 Q Where does it drop you off?

19 A By our mail boxes.

20 Q Okay. About how far away is that from your  
21 house?

22 A About a quarter mile.

23 Q How long does it take you to get from where the  
24 bus drops you off to get to your house?

25 A Well, if you walk, it takes five minutes, but if you

1           run, it probably takes you two.

2       Q     Do you normally run home from the bus?

3       A     Sometimes.

4       Q     On October 31, 2005, did you run or walk home?

5       A     I don't recall.

6       Q     Now, did you go directly home from getting off

7           the bus that day?

8       A     Yes.

9       Q     Did you see anyone when you were walking down the

10           bus -- down to -- from the bus stop to your

11           house?

12       A     No.

13       Q     Other than Blaine; right?

14       A     Yes.

15       Q     What did you do when you got home that day?

16       A     I played video games.

17       Q     Do you know what Blaine was doing?

18       A     He was on the phone.

19       Q     Was that something you talked about beforehand?

20       A     Yes.

21       Q     Why -- why would that topic of conversation come

22           up while you were walking from the bus stop?

23       A     Because Blaine wanted to use the phone, and I wanted

24           to go on the computer.

25       Q     Did you have one connection in the house?

1 A Yes.

2 Q So if someone's on the phone, you can't be on the  
3 computer?

4 A Yes.

5 Q Do you know why Blaine needed to use the phone?

6 A To call his friend.

7 Q Do you know why?

8 A To go -- to see if he was going trick or treating.

9 Q So something you guys talked about?

10 A Yes.

11 Q You didn't go -- want to go trick or treating  
12 that night?

13 A I was deciding if I wanted to.

14 Q So, now, you were at home playing video games.  
15 You said this is normal for you?

16 A Yes.

17 Q Do you remember what video game you were playing?

18 A I believe it was *American Chopper*.

19 Q How do you recall or how -- why would you think  
20 that that's the game you were playing?

21 A Because some of the games that we have now are too  
22 new.

23 Q Okay. So that was not a new game at that time?

24 A No.

25 Q How long were you playing video games after you

1           got off the bus at 3:45?

2    A     About two hours.

3    Q     What did you do after you were done playing video

4           games?

5    A     I ate some food.

6    Q     Okay. Did you make it yourself?

7    A     Yes.

8    Q     Where did you go to make food for yourself?

9    A     In the kitchen.

10   Q     How far from your bedroom is that?

11   A     Twenty feet.

12   Q     Do you know what time it was when you went to

13           make food for yourself?

14   A     Around 5:00.

15   Q     How do you know it was around five when you went

16           to the kitchen?

17   A     Because I looked on the -- the oven for the time.

18   Q     Okay. Was anyone else in the kitchen at that

19           time?

20   A     Not that I recall.

21   Q     Any time while you were eating?

22   A     Just Blaine.

23   Q     Okay. And -- and, uh, what was Blaine doing?

24   A     He was in the kitchen holding his duffel bag.

25   Q     Was he going somewhere?

1 A Yeah.

2 Q Where was he going?

3 A Trick or treating.

4 Q And this is with the same person he talked to on

5 the phone?

6 A Yes.

7 Q Do you remember what time he left?

8 A Around 5:20.

9 Q So when you say you thought it was 5:00, it was

10 certainly sometime before Blaine left?

11 A Yes.

12 Q Was anyone else home at that time?

13 A Just my mom.

14 Q And -- and do -- do you know when -- the time

15 your mom got home?

16 A Around five.

17 Q Did you see her come home?

18 A No.

19 Q How do you know it was around five?

20 A Because, usually, she keeps her door shut for her

21 bed -- to her bedroom.

22 Q Okay. But how would you know, then, it was

23 around five when she got home?

24 A She usually comes home from work at that time.

25 Q There was no reason for you to -- well, strike

1           that. The, um -- so she normally comes home at  
2           five?  
3    A       Yes.  
4    Q       Did you speak with her at all bef -- after -- or  
5           while you were eating supper?  
6    A       No.  
7    Q       Okay. What did you do after you were done  
8           eating?  
9    A       I went into my mom's room and talked to her about --  
10           that she was -- I asked her -- or she told me that  
11           she was going with Scott to the hospital to see his  
12           mom.  
13   Q       And who's Scott?  
14   A       My mom's fiance.  
15   Q       Did you know ahead of time that that might be  
16           something she was doing that evening?  
17   A       No.  
18   Q       Okay. Did you just learn -- this was the first  
19           time you heard it?  
20   A       Yes.  
21   Q       Did you see her leave?  
22   A       Yes.  
23   Q       Do you know what time that was?  
24   A       Around 5:30.  
25   Q       And was it before or after Blaine left?

1 A After.

2 Q Was it shortly after or long time after Blaine

3 left?

4 A Shortly.

5 Q So is that why you think it was about 5:30?

6 A Yeah.

7 Q When, um -- when your mom left, did she -- did

8 you see if she drove off in her car?

9 A No.

10 Q Did you see how she left? How she left to go up

11 to Green Bay?

12 A Yeah.

13 Q And -- and how did that happen?

14 A She got into Scott's truck and they left.

15 Q So you saw Scott's truck out there?

16 A Yes.

17 Q Now, did you see Scott?

18 A No.

19 Q So you're assuming he was driving?

20 A Yeah.

21 Q Okay. During the time that you and Blaine had

22 been home after getting off the bus at 3:45, did

23 you ever leave the house?

24 A Can you repeat that?

25 Q After you and Blaine got off the bus at 3:45, and

1           before your mom left, excuse me, did you leave  
2           the house?  
3    A     No.  
4    Q     Did you ever see Blaine leave the house?  
5    A     Just at 5 or around 5:20.  
6    Q     So when he left to go meet his friend was the  
7           first time you saw him leave?  
8    A     Yes.  
9    Q     What did you do -- well, first of all, is anyone  
10          left at the house, now, after your mom leaves?  
11   A     No.  
12   Q     Do you know where Bobby is?  
13   A     No.  
14   Q     Did you go in his room to check and see if he was  
15          in there?  
16   A     No.  
17   Q     What did you do after your mom left at 5:30?  
18   A     Watched TV.  
19   Q     And where do you watch T -- do you watch TV in  
20          your room?  
21   A     In the living room.  
22   Q     Do you know how long you watched TV?  
23   A     Until around 6:00 when I got a phone call.  
24   Q     Who -- who called?  
25   A     Mike Kornely.



1 Q Who's Mike Kornely?  
2 A Blaine's boss.  
3 Q Do you recognize his voice when he calls?  
4 A Yes.  
5 Q Do you know Mike?  
6 A Yes.  
7 Q Why -- how do you know Mike?  
8 A I used to work for him.  
9 Q Did he call for you?  
10 A No.  
11 Q Who did he call for?  
12 A For Blaine.  
13 Q Did you talk to him for very long?  
14 A No.  
15 Q And how long did you talk to Mike?  
16 A Five to ten minutes.  
17 Q Do you know for certain it was 6:00 or around  
18 6:00 he called?  
19 A Yeah.  
20 Q And how do you know that for certain?  
21 A Because he called after my mom left.  
22 Q So sometime after 5:30 he called?  
23 A Yes.  
24 Q Okay. And you watched TV for awhile before he  
25 called?

1 A Yes.

2 Q So, you're making a -- would it be fair to say  
3 you're just kind of estimating what time he  
4 called?

5 ATTORNEY FALLON: Objection, leading.

6 THE WITNESS: Yes.

7 ATTORNEY FALLON: At this point I'd ask  
8 for a more question and answer format.

9 THE COURT: I think these are fair  
10 questions. Go ahead.

11 Q (By Attorney Fremgen) Did you receive any other  
12 calls after Mike Kornely called at around 6:00?

13 A No.

14 Q What did you do after you got off the phone with  
15 Mike?

16 A I watched TV.

17 Q And how long did you watch TV after you got off  
18 the phone with Mike?

19 A Until I got another phone call at around 7.

20 Q Okay. And who called you around 7?

21 A Steven.

22 Q Who's Steven?

23 A My uncle.

24 Q Is it -- that's Steven Avery?

25 A Yeah.

1 Q Okay. And the one who lives near -- next door?  
2 A Yeah.  
3 Q What did Steven call you about?  
4 A He asked me if I wanted to come over to the bonfire.  
5 Q Now, did you look out the window and see if there  
6 was a bonfire?  
7 A No.  
8 Q What did you say to Steven?  
9 A That I would be over in a little bit.  
10 Q So what did you do? Did you have the phone then?  
11 A Yeah.  
12 Q What did you do then?  
13 A I changed my clothes out of my school clothes.  
14 Q Why did you get changed?  
15 A Because, usually, I don't like, uh -- I wear  
16 different clothes when I go out -- well, I was  
17 wearing shorts and a short-sleeve that day.  
18 Q What was the weather like that night?  
19 A Cold.  
20 Q So what did you change into?  
21 A Pants and a -- a shirt.  
22 Q What -- what kind of pants?  
23 A Jeans.  
24 Q Now, you've been, obviously, sitting through this  
25 trial. There were a pair of jeans. I believe

1           it's Exhibit No. 58. Do you recall seeing that?

2    A     Yes.

3    Q     Those were the jeans you were wearing?

4    A     Yes.

5    Q     Okay. So did you go right over to your uncle's,

6           then, after you got off the phone?

7    A     No.

8    Q     What did you do?

9    A     I changed into that clothes, and, then, he called

10           again ten -- about ten minutes later.

11   Q     Why -- why did he call again?

12   A     To see if I changed my mind.

13   Q     What did you say?

14   A     That I was on my way.

15   Q     So what did you do next, Brendan?

16   A     I walked over there.

17   Q     Over where?

18   A     Over by Steven.

19   Q     Where, exactly, did you go over when you left

20           your house at around 7-ish?

21   A     To the fire pit.

22   Q     To a fire pit?

23   A     Yeah.

24   Q     Okay. Where's the fire pit located at Steven's

25           house?

1 A Behind his garage.

2 Q Did you see the fire going?

3 A Yes.

4 Q Could you describe what it looked like?

5 A It was two feet high.

6 Q Have you seen fires back there before?

7 A Yes.

8 Q How often have you seen fires? Do you know?

9 A Not that I recall.

10 Q More than once?

11 A Yes.

12 Q Okay. Did it look like it was normal size fire?

13 A Yes.

14 Q Did you see anything on the fire?

15 A Just some tires and some branches.

16 Q So about how close did you get to the fire?

17 A Ten, fifteen feet.

18 Q Where was Steven when you got to the fire?

19 A Standing, like, by the golf cart.

20 Q Okay. And where was the golf cart by the fire?

21 A About 15 feet away from it.

22 Q All right. What did you do when you got down to

23 the fire?

24 A I asked him what we were going to do, and he told me

25 that he wanted to pick up the yard, and we drove

1           around in the golf cart and picked up stuff.

2   Q       Okay. What kind of stuff did you pick up?

3   A       Wood, tires, an old cabinet and the van seat.

4   Q       Now, is this stuff that's just lying around your

5           yard?

6   A       Yes.

7   Q       And -- and by -- I guess what -- to clarify, was

8           it your yard or Steven's yard?

9   A       Both.

10   Q       Now, we go back to the wood. Do you recall where

11           the wood was on your yard? Where it was?

12   A       All over.

13   Q       Why -- do -- do you know why there was wood all

14           over your yard?

15   A       Because it was, uh, leftovers from building our

16           garage.

17   Q       Leftovers from?

18   A       Building our garage.

19   Q       What -- what kind of wood?

20   A       Timber. Whatever.

21   Q       Timber? Would use to frame the garage you mean?

22   A       Yeah.

23   Q       Okay. You said an old cabinet?

24   A       Yeah.

25   Q       Where was that?

1 A Maybe a hundred feet away from the -- our garage.  
2 Q And -- and some old tires you said?  
3 A Yes.  
4 Q Okay. Where were the tires when you -- when you  
5 found them?  
6 A In the same place as the cabinet.  
7 Q So were most of these things on your land?  
8 A Yes.  
9 Q Okay. I'm sorry, did you mention a van seat,  
10 too?  
11 A Yes.  
12 Q Okay. Where was that?  
13 A On the side of our garage.  
14 Q Do you know why it was there?  
15 A Just that Steven got it for -- because we couldn't  
16 find one of the seats for the van.  
17 Q The van, meaning that maroon van, that was out in  
18 front of your house?  
19 A Yes.  
20 Q Okay. What did you do with the items as you  
21 collected them?  
22 A We put them in the golf -- the back of the golf cart.  
23 Q And what did you do with them after that?  
24 A When the back of the golf cart got full, we drove it  
25 to the fire.

1 Q Did you throw them on the fire?  
2 A Some of it.  
3 Q What did you do with the rest?  
4 A Piled it -- or planted it -- piled it right by the  
5 fire.  
6 Q How many trips did you take in the golf cart  
7 collecting debris from your yard?  
8 A Around four.  
9 Q And how long did it take you to do that? Collect  
10 the debris in your yard?  
11 A About 45 minutes.  
12 Q And after that, what did you do?  
13 A Went into the garage. He -- Steven asked me to help  
14 him clean up something in the garage on the floor.  
15 Q Okay. Now, have you been in the garage before?  
16 A Yes.  
17 Q Had you ever worked with Steven before in the  
18 garage?  
19 A Yes.  
20 Q Was it unusual for him to ask you to help you  
21 clean something out of the garage?  
22 A Not really.  
23 Q What did that, uh -- you said it -- something to  
24 clean up. What did the -- what was the  
25 something? Do you know?



1 A No.

2 Q What did it look like?

3 A Looked like some fluid from a car.

4 Q So what did you do to clean up? Or how did you

5 clean up the -- the mess on the floor?

6 A We used gas, paint thinner and bleach with, uh, old

7 clothes that me and my brothers don't fit in.

8 Q Okay. Well, let me ask you, was it a -- a large

9 spill?

10 A About three feet by three feet.

11 Q And did you pour gasoline on it?

12 A No.

13 Q So you were -- what -- what did you do? If you

14 weren't pouring the gasoline, what were you doing

15 to help clean up?

16 A I was looking through the bag to find stuff to clean

17 it up with.

18 Q Bag of what?

19 A Bag of the clothes.

20 Q And did you clean it up with the -- something

21 from the bag of old clothes?

22 A Yes.

23 Q Okay. And as you did that, what did you do with

24 the rags? Did you just wash them out?

25 A What do you mean?

1 Q When you cleaned up with the old clothes, what  
2 did you do with them as they got dirty?  
3 A We picked them up and we threw them on the fire.  
4 Q Okay. Now, you said that you used three items to  
5 try to clean up the -- the mess on the floor?  
6 A Yes.  
7 Q And did you ever pour anything on -- on the mess?  
8 A No.  
9 Q Okay. What was -- what was the second item that  
10 Steven used?  
11 A Paint thinner.  
12 Q And did that clean up the mess?  
13 A A little bit.  
14 Q Same thing? You used rags, then, to clean up?  
15 A Yes.  
16 Q How would you -- how did you do that? Would --  
17 did you get down on your hands and knees? Can  
18 you explain how you did that?  
19 A We would just throw it on the floor and we used our  
20 feet.  
21 Q And, then, you would do what with them?  
22 A Move them around.  
23 Q And, then, after they -- what did you do with  
24 them after they were dirty?  
25 A Picked them up and threw them on the fire.

1 Q And how did you pick them up?  
2 A By our fingers.  
3 Q The -- the bleach, that -- was that last?  
4 A Yeah.  
5 Q Where did Steven get the bleach?  
6 A From the house.  
7 Q Did you go in with him?  
8 A No.  
9 Q Did you ever go in the house that night?  
10 A Not that I recall.  
11 Q His house?  
12 A No.  
13 Q Do you know where Steven keeps his bleach?  
14 A Usually in the bathroom.  
15 Q And how do you know that?  
16 A Because I was in the bathroom a few times and I seen  
17 it.  
18 Q Can you estimate, in the past, how many times  
19 you'd been in the bathroom?  
20 A Twenty to twenty-five.  
21 Q So you're familiar with his house a little bit?  
22 A Yes.  
23 Q Did you ever ask Steven what it was that was on  
24 the floor?  
25 A No.

1 Q Now, do you recall -- or do you recall, at some  
2 point, from February 27, or on, 2006, speaking to  
3 Investigators Wiegert or Fassbender?  
4 A Yes.  
5 Q And -- and you recognize them; right?  
6 A Yeah.  
7 Q They're here in court?  
8 A Yes.  
9 Q Okay. And -- and you spoke to them a couple  
10 times?  
11 A Yes.  
12 Q Did you tell them what you saw on the floor?  
13 A Yes.  
14 Q What did you tell them?  
15 A That it could have been blood.  
16 Q What did you tell them the first time they asked  
17 you what it was on the floor?  
18 A I can't remember.  
19 Q How long did it take you to clean up what was on  
20 the floor?  
21 A Fifteen minutes.  
22 Q Now, did anything happen to your clothes cleaning  
23 up the -- the mess on the floor?  
24 A Not that I noticed right away.  
25 Q What did you notice later?

1 A That there was bleach stains on them.

2 Q Bleach on -- on what?

3 A The pants.

4 Q Okay. Did you ever wear those pants again?

5 A Not that I remember.

6 Q What did you do with them?

7 A I washed them that night and just put them in my

8 dresser.

9 Q So, after you finished cleaning up, you said it

10 took about 15 minutes?

11 A Yes.

12 Q What did you do then?

13 A We went back outside and we put some of the -- more

14 of the stuff that we picked up from the yard.

15 Q How close to the fire did you get when you were

16 throwing more stuff onto it?

17 A About five feet.

18 Q Did you, yourself, get any phone calls while you

19 were out there?

20 A Not that I talked to.

21 Q Did that -- so someone call you?

22 A My mom called Steven.

23 Q But you didn't talk to her?

24 A No.

25 Q Do you know what time that was?

1 A Not that I recall.

2 Q Did he tell you what she said to -- to him?

3 A Yeah.

4 Q Was Steven outside with you the whole time

5 watching the fire?

6 A Yes.

7 Q Other than going in to get the bleach, did he

8 ever go inside?

9 A No.

10 Q So, now, you're watching the fire for awhile;

11 right?

12 A Yes.

13 Q What are you doing?

14 A I only can recall that Steven was talking to me about

15 a phone call that he got from Jodi.

16 Q Okay. Do you recall any other conversations you

17 had?

18 A Not that I recall.

19 Q Did you -- but you were talking?

20 A Yes.

21 Q Do you know how long you were out there waiting

22 and -- or, excuse me, talking and watching the

23 fire?

24 A No.

25 Q About what time did you go home?

1 A Around ten.

2 Q Do you recall -- and, again, I -- maybe I asked

3 you this. I'm sorry. Did -- I asked you what

4 time you received the call from your mom?

5 A Yeah.

6 Q Did you know what time that was?

7 A No.

8 Q Okay. When you got home, was anyone else home?

9 A Not that I recall.

10 Q Did you see any brothers?

11 A No.

12 Q Did you talk to your mom at all?

13 A Yeah.

14 Q When was that?

15 A About 10:20.

16 Q Was she home then?

17 A No.

18 Q How did you talk to her?

19 A She called on the house phone.

20 Q What were you doing when she called?

21 A Sitting on the couch.

22 Q What time did you go to bed?

23 A After I had got done talking to my mom.

24 Q Now, following October 31, 2005, did you lose any

25 weight?

1 A Yes.

2 Q How much did you lose?

3 A Five, ten pounds.

4 Q Were you doing this on purpose? Is it --

5 A No.

6 Q You weren't trying to lose weight?

7 A Well, I was trying to.

8 Q Okay. Why were you trying to lose weight?

9 A Because people were calling me fat and because I

10 thought that my first girlfriend broke up me -- with

11 me because of my weight.

12 Q You mean first ever or --

13 A Yeah.

14 Q Prior to October, or -- well, let me ask -- ac --

15 actually, ask you it this way. Have you ever

16 seen Teresa Halbach before?

17 A No.

18 Q Now, you, obviously, know that name; correct?

19 A Yes.

20 Q When was the first time that you recall hearing

21 the name or seeing her picture?

22 A When she was reported missing.

23 Q When was that? Do you recall?

24 A Not that I remember.

25 Q And how did you come about hearing about her



1           being missing?

2    A    On that day, my mom called.  She told me to turn on

3           the news.

4    Q    So you watched TV?

5    A    Yes.

6    Q    Now, at some point your Uncle Steven is arrested;

7           correct?

8    A    Yes.

9    Q    Did you watch any TV accounts about that?

10   A    Not that I remember.

11   Q    Did you ever see Teresa Halbach alive on

12           October 31, 2005?

13   A    No.

14   Q    Did you ever see her body that night?

15   A    No.

16   Q    Now, you spoke with Investigators Wiegert and

17           Investigator Fassbender; correct?

18   A    Yes.

19   Q    And you were in court for the video as well;

20           correct?

21   A    Yes.

22   Q    Obviously, that's you on the video; right?

23   A    Yes.

24   Q    Do you realize how serious this charge is?

25   A    Yes.

1 Q Why did you tell those two investigators that you  
2 participated in killing and -- and raping Teresa  
3 Halbach?  
4 A I don't know.  
5 Q You have no idea why you would say that?  
6 A No.  
7 Q Okay. Brendan, I want to talk about that video a  
8 little bit with you, okay?  
9 A Okay.  
10 Q You -- you know it was being videotaped that day?  
11 A Yes.  
12 Q And -- and the officers explained to you your  
13 rights; is that right?  
14 A Yes.  
15 Q Did you understand them?  
16 A Yes.  
17 Q When they -- you first talked to the officers  
18 about Teresa Halbach, did you immediately tell  
19 them that you had -- you were there and  
20 participated killing and raping her?  
21 A No.  
22 Q In your mind, Brendan, do you feel as if there  
23 were promises made to you by the officers?  
24 A Sort of.  
25 Q What do you mean by that?

1 A That if I told the truth, that I won't go away for  
2 life.  
3 Q Did you tell the truth?  
4 A No.  
5 Q What other promises do you think -- in your mind,  
6 what other promises were made to you?  
7 A That's all I recall.  
8 Q There were times that they wanted to talk to you  
9 about a gun; right?  
10 A Yes.  
11 Q And did you ever admit to using the gun?  
12 A No.  
13 Q Why didn't you admit to that?  
14 A Because I don't like guns.  
15 Q Was that different than it -- when you admitted  
16 to what you're saying you didn't do?  
17 A Yes.  
18 Q Why is that? Why do you believe that's  
19 different?  
20 A I don't know.  
21 Q When you were being, um, questioned by the  
22 officer, the two investigators, did they ever  
23 tell you that they were telling you the truth  
24 about things?  
25 A Did I feel like that?

1 Q No. Did they? Did they tell you that?

2 A No.

3 Q Did they ever say they were lying about anything?

4 A Did they say I was lying?

5 Q No. Did they say they were lying to you?

6 A No.

7 Q You don't know what they were telling you was  
8 true or not; correct?

9 ATTORNEY FALLON: Objection, leading, at  
10 this point.

11 THE COURT: Under 906.11 (3), some leading  
12 questions are permissible, mainly foundational  
13 questions. We're now getting into some evidentiary  
14 areas, so, I'm going to sustain the objection.

15 ATTORNEY FREMGEN: That's fine. I was  
16 sense -- sense -- essentially using that to try to  
17 lead up to this question, which will be a little  
18 more open-ended.

19 Q (By Attorney Fremgen) If you didn't know that  
20 they're lying to you, or telling you the truth,  
21 Brendan, why did you answer the questions to them  
22 the way you did?

23 A I don't know.

24 Q Do you have any explanation for admitting to  
25 this?

1 A No.

2 Q How many times had you talked to the officers

3 before March 1?

4 A Twice.

5 Q And, when -- when did those two times occur?

6 A In November of 2005.

7 Q How many times in November?

8 A Twice.

9 Q Okay. What about -- anytime between November,

10 2005, and March 1, 2006?

11 A To March?

12 Q Between those two dates, did you talk to the

13 investigators? Officers -- Investigators Wiegert

14 or Fassbender?

15 A Yes.

16 Q And how many times did you talk to them between

17 those two dates?

18 A Once in February and -- or, there was three times, on

19 February 27, and one on February -- or March 1.

20 Q So where -- where were the three times in

21 February? Where did those occur?

22 A One at school, one in Two Rivers and one, I believe,

23 it was the Fire Department in Mishicot.

24 Q What happened after they spoke to you on

25 February 27? Did they arrest you?

1 A No.

2 Q What happened to you? Where did you go?

3 A They put us up in Fox Hills Resort.

4 Q Okay. How -- how -- how long were you up there?

5 A We only stayed up there for that night.

6 Q Which night? What's the date of that?

7 A February 7 -- 27.

8 Q So where did you go on February 28?

9 A Home.

10 Q Where did you sleep on February 28?

11 A At home.

12 Q Where did you go on March 1?

13 A Went to school.

14 Q And after that?

15 A The investigators talked to me and brought me to --

16 first they brought me to my house to get the pants,

17 and they brought me to Manitowoc.

18 ATTORNEY FREMGEN: I have nothing else,

19 Judge.

20 THE COURT: Cross.

21 ATTORNEY FALLON: Yes. Thank you.

22 **CROSS-EXAMINATION**

23 BY ATTORNEY FALLON:

24 Q Mr. Dassey, I have a few questions for you; all

25 right?

1 A Okay.

2 Q First, let me ask this: How long does it take

3 you to walk from the trailer, where you were

4 living with your mom and your brothers, to your

5 Uncle Steve Avery's trailer?

6 A Around a minute or two.

7 Q All right. You like to play video games; right?

8 A Yes.

9 Q As a matter of fact, when you get done with

10 school, you would like to design video games?

11 A Yes.

12 Q You really enjoy working with them?

13 A Yes.

14 Q And you're pretty good with them?

15 A Yes.

16 Q All right. And, at school, you have just two

17 special classes; right?

18 A I don't -- I don't know.

19 Q Well, you said you had both, um, mainstream and

20 some special classes?

21 A Yes, but I don't know the names of the --

22 Q How many special classes did you have? Two;

23 right?

24 A That I recall, yeah.

25 Q Okay. Otherwise, you're in with the rest of the

1 regular students; right?

2 A Yes.

3 Q Okay. Now, let me show you something. Exhibit

4 58. Do you recognize these?

5 A Yes.

6 Q All right. These are the blue jeans that you

7 were wearing on the night of October 31?

8 A Yes.

9 Q All right. And these are the ones that you've

10 just told your attorney that, on March 1, you

11 went with Special Agent Fassbender to pick these

12 up on your way to the Sheriff's Department?

13 A Yes.

14 Q Okay. These are the pants?

15 A Yes.

16 Q All right. You're telling us you washed them

17 that night?

18 A Yes.

19 Q Did you wash anything else that night?

20 A Not that I recall.

21 Q Just those pants?

22 A Yes.

23 Q All right. Now, you just told us that you were

24 cleaning up the floor in the garage?

25 A Yes.



1 Q But you didn't get on your hands and knees to  
2 clean the floor?  
3 A No.  
4 Q Okay. In other words, you just put whatever  
5 cleaner down and you used your feet to mop up the  
6 stuff with the old clothes?  
7 A Yes.  
8 Q Is that right?  
9 A Yes.  
10 Q Okay. You're sure?  
11 A Yes.  
12 Q Okay. And you just told us that the pants didn't  
13 seem to get dirty? You didn't notice them being  
14 dirty?  
15 A Yeah.  
16 Q And you had just put them on before you went over  
17 there?  
18 A Yes.  
19 Q Okay. Where did you get them from before -- when  
20 you changed your clothes?  
21 A In my dresser.  
22 Q In your dresser drawer?  
23 A Yes.  
24 Q Were they clean, then, when you put them on?  
25 A Yes.

1 Q All right. If they were clean when you put them  
2 on, and you didn't notice them getting dirty, and  
3 you never got on your hands and knees, why did  
4 you wash them?

5 A Because I usually do that after a while.

6 Q You usually wash your pants after wearing them  
7 for two hours?

8 A Well, I usually wash pants for school every day  
9 almost.

10 Q You do laundry every night?

11 A Yes.

12 Q Mr. Dassey, you went over to your Uncle Steven's  
13 house at some point after school?

14 A No.

15 Q You didn't tell your mother that you went over  
16 there?

17 A I didn't.

18 Q All right. Well, let me, um, play something for  
19 you, and I want to ask you a couple of questions;  
20 all right?

21 A Okay.

22 (Wherein audio clip is played.)

23 Q That was the conversation between you and your  
24 mother; right?

25 A Yes.

1 Q All right. Why didn't you tell your mother at  
2 5:00 what you had seen earlier?  
3 A Because it really didn't happen.  
4 Q Was Teresa Halbach alive at 5:00, Mr. Dassey?  
5 A She was never there at -- when I was there.  
6 Q Never where, sir?  
7 A I never seen her there.  
8 Q You never saw her there?  
9 A No.  
10 Q All right. Then, why is your mother asking you  
11 that question?  
12 A I don't know.  
13 Q Where do you think she would have gotten the idea  
14 that you were there before 5:00, sir?  
15 A I don't know.  
16 Q She came home about 5:00?  
17 A Yes.  
18 Q So at 5:00, you're home, your brother, Blaine, is  
19 still there, and you're there?  
20 A Yes.  
21 Q Your brother, Blaine, leaves at 5:15, 5:20?  
22 A Yes.  
23 Q Your mother leaves 5:20, 5:30?  
24 A Yes.  
25 Q And she leaves with Mr. Tadych?

1 A Yes.

2 Q All right. Mr. Dassey, let me ask you a  
3 question: In the interview you gave on March 1  
4 with these two gentlemen here, you told them that  
5 your uncle's fiance, Jodi Stachowski, called;  
6 correct?

7 A Yes.

8 Q You told him that she called twice; correct?

9 A Yes.

10 Q All right. You told them that she called at  
11 5:30?

12 A Yes.

13 Q How do you know that, if you weren't there?

14 A Because Steven told me.

15 Q He told you that?

16 A Yes.

17 Q What time did he tell you the other time?

18 A What do you mean?

19 Q I'm sorry?

20 A What do you mean?

21 Q How many times did she call that night?

22 A Twice.

23 Q How many times were you there?

24 A When I was there?

25 Q Yeah.

1 A Once.

2 Q I have something else I'd like you to listen to,  
3 sir. I have something else for you, sir. One  
4 moment.

5 (Wherein portion of March 1 videotape is played)

6 ATTORNEY FALLON: Record should reflect  
7 that was about 14 minutes.

8 THE COURT: Do you have the start and  
9 ending times?

10 ATTORNEY FALLON: Yes. Uh, 11:37, 47, to,  
11 I believe it was about 11:50, approximately.

12 Q (By Attorney Fallon) All right. Mr. Dassey, you  
13 told the officers that you were there and Teresa  
14 was alive?

15 A Yes.

16 Q She was alive?

17 A But it really didn't happen.

18 Q You made that all up?

19 A Yes.

20 Q You just happened to know Teresa's words?

21 A No.

22 Q How do you know what she said?

23 A I made it up.

24 Q You made it up?

25 A Yes.

1 Q You made up the part that you raped her?  
2 A Yes.  
3 Q You made up the part that she told you not to do  
4 it?  
5 A Yes.  
6 Q To do the right thing?  
7 A Yes.  
8 Q And to tell your uncle not to do it?  
9 A Yes.  
10 Q You made that up?  
11 A Yes.  
12 Q Now, Mr. Dassey, didn't you tell your mother in a  
13 phone call on May 13 that you had gone over to  
14 your Uncle Steven's after school and before she  
15 came home?  
16 A Yes.  
17 Q You did?  
18 A Yes.  
19 Q And, again, on May 15, the first tape we played,  
20 she's asking you why you didn't tell her. Why  
21 didn't you?  
22 A Because it didn't happen.  
23 Q Why did you tell her you went over there, sir?  
24 A I don't know.  
25 Q You lied to your mother as well?

1 A Yes.

2 Q And you lied to the police?

3 A Yes.

4 Q Are you lying -- you're lying today?

5 A No.

6 Q Didn't you tell your mother, when she asked you,  
7 when did you go over there, well, I went over  
8 earlier and then came home before you did.

9 A Yeah.

10 Q You told her that; right?

11 A Yeah.

12 Q All right. And she said, why didn't you say  
13 something to me then; right?

14 A Yeah.

15 Q And you answered, I don't know, I was too scared.

16 A Yeah.

17 Q You didn't tell your mother you weren't there,  
18 did you?

19 A Because I never went up -- out -- over there.

20 Q My question, young man, is you didn't tell your  
21 mother you weren't there; right?

22 A No.

23 Q That's not right?

24 A I didn't tell her.

25 Q You did not. Why?

1 A Because I -- I didn't go over there.

2 Q Why did you let her believe that you did?

3 A I don't know.

4 Q Now, speaking of these -- these lies, Mr. Dassey,  
5 on your direct examination, you told us that  
6 there was a fire that night; right?

7 A Yes.

8 Q But when you were interviewed up in Crivitz by  
9 Detective O'Neill, you remember the gentleman who  
10 testified a couple of days ago?

11 A Yes.

12 Q All right. You told him there was no fire that  
13 week; right?

14 A Yes.

15 Q So you lied to him?

16 A Yes.

17 Q Why did you lie to him?

18 A Because I'm just like my family. I don't like cops.

19 Q You don't like cops. Why didn't you tell  
20 Detective O'Neill what you told us on direct  
21 examination today?

22 A I don't know.

23 Q You didn't -- if you didn't do anything wrong,  
24 sir, why didn't you tell Detective O'Neill?

25 A I don't know.



1 Q Your brother's interview was done much more  
2 quickly than yours; right?

3 A Yeah.

4 Q On November 6?

5 A Yes.

6 Q In fact, he was done in about 10 minutes, maybe,  
7 15, maybe?

8 A I believe so.

9 Q All right. Now, in that second interview -- you  
10 just told us you were interviewed twice up in  
11 Crivitz area. On the second interview, you did  
12 tell them about a fire.

13 A Yes.

14 Q When did you tell them the fire happened that  
15 time?

16 A On October 31.

17 Q Isn't it a fact you told them that the fire was  
18 Tuesday or Wednesday of that week and not Monday?

19 A I might have.

20 Q I want to play one very brief clip from this  
21 March 1 interview, sir. I'd like you to watch it  
22 and then answer a question or two; all right?

23 A Yes.

24 (Wherein portion of March 1 videotape is played)

25 ATTORNEY FALLON: For the record, I started

1 at 2:10:25, uh, 2.

2 Q (By Attorney Fallon) Mr. Dassey, if you didn't

3 do anything, why did you feel sad?

4 A I don't know.

5 Q Why did you apologize?

6 A I don't know.

7 Q They didn't tell you to apologize?

8 A No.

9 Q You apologized on your own; right?

10 A Yes.

11 Q Do you always apologize for things that you

12 didn't do?

13 A Not really.

14 Q In fact, you usually apologize when you've done

15 something wrong?

16 A Not really.

17 Q You don't apologize then either?

18 A Sometimes.

19 Q Okay. When do you apologize?

20 A For both.

21 Q For both? Explain, please.

22 A I would say that I'm sorry for, uh, some things I do

23 and some I don't.

24 Q Is that why you apologize in this case? Because

25 you were sorry for what you had done to Teresa?

1 A No, because I didn't do it.

2 Q Why did you apologize?

3 A I don't know.

4 Q Now, all week you sat in court with your head  
5 down and you didn't look at the tape of the  
6 interview when we played it on Friday. Why?

7 A Huh?

8 Q Why did you not look at the tape?

9 A Because I didn't have to.

10 Q In fact, you didn't look at the tape this morning  
11 when I played it for the fifth -- for almost 15  
12 minutes, did you?

13 A No.

14 Q You didn't have to; right?

15 A No.

16 Q That's because you knew what was on it?

17 A Yes.

18 Q Yeah. Are you ashamed of your behavior? Is that  
19 why your head was down all week?

20 A No.

21 Q Are you feeling guilty?

22 A No.

23 Q Then why were you hanging your head all week?

24 A I had my head down because I can hear better that  
25 way.

1 Q Are you hearing me all right now?

2 A Yes.

3 Q You've heard Detective Wiegert testify on --

4 A Yes.

5 Q -- Friday and Saturday morning; right?

6 A Yes.

7 Q And he said he had no idea that there was a

8 sexual assault?

9 A Yes.

10 Q You were the one who brought up the fact of a

11 sexual assault; right?

12 A Yes.

13 Q You brought up the rape; right?

14 A Yes.

15 Q You went over to your uncle's cabin because you

16 knew you were going to have sex; right?

17 A No.

18 Q Why did you tell the police that your Uncle

19 Steven was proud of you for what you had done?

20 A I don't know.

21 Q Why did you say that you sexually assaulted her?

22 A I don't know.

23 Q Why did you say you put your penis in her for

24 five minutes?

25 A I don't know.

1 Q Why did you tell the police that you thought it  
2 was blood in the garage?  
3 A Because it was the color of red.  
4 Q Because it was the color of red?  
5 A Yeah.  
6 Q It looked like blood?  
7 A It could have been.  
8 Q What else would it have been?  
9 A Fluid from a car.  
10 Q Mr. Dassey, have you ever used bleach to clean up  
11 car fluid?  
12 A That was the first time I cleaned up car fluid.  
13 Q First time?  
14 A Yes.  
15 Q All right. And you used gas?  
16 A Yes.  
17 Q Used paint thinner?  
18 A Yes.  
19 Q And you used bleach?  
20 A Yes.  
21 Q You used the bleach?  
22 A Well, Steven put it on the ground.  
23 Q How did the bleach get on your pants if you never  
24 got on the ground, sir?  
25 A It could have splashed up on my pants.

1 Q All the way up to your waist?

2 A That, or I could have had some -- the sprinkles on

3 the bottom could have been from splashing on the

4 ground, and when I picked up the -- the towel -- the

5 rags that we used, I could have wiped my hands on my

6 pants.

7 Q Those rags were Teresa's clothing; right?

8 A No.

9 Q Why did you tell the officers her clothing were

10 in the fire?

11 A I don't know.

12 Q All right. I want to show you a picture. I'm

13 showing you what is marked for identification, or

14 received into evidence, excuse me, as Exhibit

15 204. You recognize the people in that picture?

16 A Yes.

17 Q That's your Uncle Steve on the right?

18 A Yes.

19 Q And your grandma and your grandpa in the middle?

20 A Yes.

21 Q And that's you on the left?

22 A Yes.

23 Q And that's at the cabin in Crivitz?

24 A Yes.

25 Q As a matter of fact, that's the search warrant on

1           the table; right?

2    A    I couldn't -- can't tell.

3    Q    Do you remember that picture being taken?

4    A    Yes.

5    Q    And it was taken right around the same time you

6           were interviewed by Detective O'Neill; right?

7    A    I can't recall.

8    Q    Well, you just said you remember when the picture

9           was taken. When was it taken?

10   A    In November something.

11   Q    In November?

12   A    Yes.

13   Q    While you were up at Crivitz?

14   A    Yes.

15   Q    And before your Uncle Steven was arrested?

16   A    Yes.

17   Q    So it would have been taken between November 5

18           and, say, November 9?

19   A    Yes.

20   Q    What were you talking about in that -- right

21           around the time of that picture?

22   A    I can't remember.

23   Q    All right. Is your Uncle Steven proud of you?

24           Does he have that proud look in his face?

25   A    No.

1 Q What are you thinking in that picture? Do you  
2 remember?  
3 A No.  
4 Q Why did you tell the police that your Uncle  
5 Steven was proud of you for helping him?  
6 A I don't know.  
7 Q Why did you tell them he couldn't have done it  
8 without you on that March 1 interview?  
9 A I don't know.  
10 Q Well, he was proud of you for helping him, wasn't  
11 he?  
12 A No.  
13 Q He was not?  
14 A Because it didn't happen.  
15 Q I'm sorry? What didn't happen?  
16 A All the stuff that I said.  
17 Q Well, did you clean up?  
18 A Yeah.  
19 Q All right. You helped put things on the fire?  
20 A Yes.  
21 Q All right. As a matter of fact, you saw this car  
22 seat; right?  
23 A Yes.  
24 Q It's sitting right in front of you; right?  
25 A Yes.



1 Q You helped your uncle put that car seat on the  
2 fire?  
3 A Yes.  
4 Q And you helped him put tires on the fire?  
5 A Yes.  
6 Q So that part's true?  
7 A Yes.  
8 Q And he told you, when he was done, thanks for  
9 helping. I'm proud of you. I couldn't have done  
10 it without you.  
11 A Not that I remember.  
12 Q Well, let's talk about your memory. How is it  
13 that you were able to tell the police officers,  
14 Mr. Fassbender and Mr. Wiegert, so much detail  
15 about what happened to Teresa if you weren't  
16 there?  
17 A I don't know.  
18 Q What do you mean, sir, you don't know?  
19 A I could have got it out of books.  
20 Q Out of books?  
21 A Yeah.  
22 Q Tell us, what books could you have gotten that  
23 out of?  
24 A I don't remember the names.  
25 Q Where else could you have gotten it?

1 A I don't know.

2 Q All right. Out of books. Let's talk about that

3 then. Would you say you have a good memory,

4 Mr. Dassey, or a medium one, or a poor one?

5 A Between poor and medium.

6 Q All right. And would you agree with the

7 counselor, Ms., um -- Ms. Gross,

8 Schoenenberger-Gross, when she testified on, uh,

9 Saturday morning that you do have memory problems

10 when it comes to learning stuff at school?

11 A Yes.

12 Q As a matter of fact, when you read things, or

13 when teachers tell you things, it's hard for you

14 to remember that so you do well on your tests;

15 right?

16 A Yes.

17 Q All right. But for other things, things that you

18 personally experience, things that you see and

19 feel and hear and smell yourself, your memory is

20 better for those things; right?

21 A Somewhat.

22 Q And -- and that's because you actually live

23 through them, you experience them; right?

24 A Yeah.

25 Q Well, when was it that you read these books to

1 help you provide all that detail to these  
2 officers?  
3 A Probably three, four years ago.  
4 Q I'm sorry?  
5 A Three or four years ago?  
6 Q Three or four years ago? And you just happened  
7 to remember all of that on March 1, 2006?  
8 A Yes.  
9 Q And you just happened to be able to tell them the  
10 exact travels that your Uncle Steve took in  
11 driving Teresa Halbach's SUV from his garage to  
12 the place in the salvage yard where the vehicle  
13 was hidden?  
14 A Yes.  
15 Q What book had that story in it, Mr. Dassey?  
16 A I don't know.  
17 Q What book that you read ever had the story of a  
18 woman chained to a bed, raped by two -- raped,  
19 stabbed, and then her body thrown on a fire?  
20 What book was that, sir?  
21 A I believe it was called, *Kiss the Girls*.  
22 Q All right. Who wrote the book?  
23 A I don't remember his name.  
24 Q Mr. Dassey, please look at Exhibit 208?  
25 A Yeah.

1 Q You drew that; correct?

2 A Yes.

3 Q That's your depiction?

4 A Yes.

5 Q Of Teresa Halbach chained to the bed?

6 A I don't understand.

7 Q Is that your dep -- is that your description? Is

8 that how she looked when you saw her on the bed

9 in Uncle Steven's bedroom?

10 A I didn't see it.

11 Q You just made that up?

12 A As I said, I got it out of that book.

13 Q Yeah. The bed is a bed that you could see from

14 the living room? You could see down the hallway

15 and see into that bedroom?

16 A Yes.

17 Q Exhibit 210. You drew this as well, sir;

18 correct?

19 A Yes.

20 Q That is your description of the burn area?

21 A Yes.

22 Q That is your description of Teresa on the fire in

23 the burn pit?

24 A Yes.

25 Q You made that up?

1 A Yes.

2 Q Why?

3 A I don't know.

4 Q Did you make Exhibit 208 up?

5 A Yes.

6 Q Why?

7 A I don't know.

8 Q Exhibit 209. You drew this picture of the

9 garage; correct?

10 A Yes.

11 Q This is your picture of Teresa Halbach; right?

12 A Yes.

13 Q And that's the area right here where you cleaned

14 up; right?

15 A No.

16 Q Well, you said that you cleaned up a -- a three

17 foot by three foot stain in the garage on direct

18 examination; right?

19 A It was in the garage but not right there.

20 Q You told the police it was right behind the lawn

21 mower?

22 A Yes.

23 Q And that's where you cleaned up?

24 A No.

25 Q Why did you tell the police this was the area of

1 the cleanup?

2 A I don't know.

3 Q Why did you put Teresa Halbach's representation,  
4 this stick person, why did you tell them that was  
5 Teresa's body?

6 A I don't know.

7 Q Exhibit 207. You drew this picture of the knife?

8 A Yes.

9 Q You said this was the knife that your Uncle  
10 Steven used to stab Teresa Halbach?

11 A Yes.

12 Q You drew that?

13 A Yes.

14 Q And you describe it as having a black handle?

15 A Yes.

16 Q And you told the police this was the knife that  
17 you used to cut across the front of her throat?

18 A Yes.

19 Q Why?

20 A I don't know.

21 Q Mr. Dassey, why did you tell the police that the  
22 burn pile smelled bad?

23 A I don't know.

24 Q It smelled bad because there was a body there;  
25 right?

1 A No.

2 Q You saw body parts in that fire, didn't you?

3 A No.

4 Q You told the officers that on February 27 you saw

5 body parts?

6 A Yes.

7 Q You told your cousin, Kayla, you saw body parts

8 in December?

9 A No.

10 Q No? She just made that up?

11 A Yes.

12 Q Okay. Did you ever talk to Kayla about the

13 events? The things that happened on October 31?

14 A I might have talked about Steven to her, but not what

15 happened on that day.

16 Q What would you think you would have told her

17 about Steven?

18 A I don't remember what I told her.

19 Q Did you tell her anything about body parts or --

20 or any of the information that you told, uh,

21 Investigators, uh, Fassbender and Wiegert?

22 A No.

23 Q Okay. You're sure?

24 A Yes.

25 Q Absolutely sure?

1 A Yes.

2 Q Okay. Then tell us, how is it that you and

3 Kayla, both, came up with telling and seeing body

4 parts in the fire if you never talked about it?

5 A She could have heard it on the news.

6 Q What newscast would that have been, sir?

7 A I don't know.

8 Q Your seeing body parts in the fire? What

9 newscast was that?

10 A I don't know. When I heard that they found bones.

11 Q No. My question is, you told the police on

12 February 27 you saw body parts; right?

13 A Yes.

14 Q All right. Kayla is telling her counselors of a

15 conversation she had with you. She's telling her

16 counselors in January that she talked to you in

17 December and that you had told her about body

18 parts. How could that be?

19 A I don't know.

20 Q How do you feel about this today? Right now.

21 A That I just want to go home.

22 Q That's all you feel right now? You just want to

23 go home?

24 A And scared.

25 Q Do you feel sorry for Teresa?



1 A Well, I know everybody feels sorry for losing  
2 someone.  
3 Q What do you feel?  
4 A I feel sorry for them.  
5 Q Why? Why?  
6 A Because I know how it feels to lose someone that you  
7 love.  
8 Q And you're telling us today that you had nothing  
9 to do with the -- with the death of Teresa  
10 Halbach?  
11 A No.  
12 Q Why did you tell the officers that you did?  
13 A I don't know.  
14 Q And is it just a coincidence that you had all the  
15 details about how she died?  
16 A I don't know.  
17 Q Do you recognize this exhibit; 170?  
18 A Yes.  
19 Q This is the rake that your Uncle Steven used to  
20 tend the fire that night, isn't it?  
21 A I can't remember.  
22 Q You can't remember?  
23 A No.  
24 Q How about this shovel? Exhibit, uh, 171?  
25 A Yes.

1 Q He used this shovel that night; right?

2 A Well, I know he used a shovel and a rake, but I don't  
3 know that they're it.

4 Q How did you know that Teresa was handcuffed to  
5 the bed?

6 A I don't know.

7 Q You just made that up?

8 A Yes.

9 Q You've never told a lie before that got you into  
10 so much trouble, have you?

11 A No.

12 ATTORNEY FALLON: That's all.

13 THE COURT: Redirect?

14 **REDIRECT EXAMINATION**

15 BY ATTORNEY FREMGEN:

16 Q Brendan, you had been asked by Attorney Fallon  
17 about the jeans. And, specifically, asked about  
18 how bleach got on them; correct?

19 A Yes.

20 Q You said you might have wiped your hands on them?

21 A Yeah.

22 Q Do you recall wiping your hands on them?

23 A I think I did.

24 Q When did you notice that they were dirty with  
25 bleach?

1 A When I got home.

2 Q That same night?

3 A Yes.

4 Q Mr. Fallon played a -- played a portion of the  
5 video for you to watch and asked you some  
6 questions. Do you recall that?

7 A Yes.

8 Q And he questioned you about how you had answered  
9 the questions to the two officers; correct?

10 A Yes.

11 Q Had you said the same thing before that to the  
12 officers?

13 ATTORNEY FALLON: Objection, vague.

14 ATTORNEY FREMGEN: That's fine.

15 Q (By Attorney Fremgen) What did you say to the  
16 officers prior to -- about those same topics  
17 prior to that clip that he just showed you?

18 A I don't understand.

19 Q Okay. Attorney Fallon showed you a clip of you  
20 telling the officers about being there and seeing  
21 Teresa Halbach and participating and killing her  
22 and sexually assaulting her; correct?

23 A Yes.

24 Q You watched that or saw it or heard it?

25 A Yes.

1 Q Were you asked those same questions at any other  
2 time during that interview?  
3 A During that interview?  
4 Q During interviews with the officers?  
5 A Before the taping?  
6 Q Were you asked any questions like that before  
7 that clip on the video?  
8 A Yes.  
9 Q Were your answers the same?  
10 A No.  
11 Q Why did you have different answers before that?  
12 A Because I was making it up.  
13 Q What were you making up?  
14 A The details and that.  
15 Q Before or during the clip that Mr. Fallon showed,  
16 what was the part that you made up?  
17 A Well, the stuff that didn't really happen is the  
18 stuff that I made up.  
19 Q And what stuff didn't really happen?  
20 A Where I was over there before 5:00, where helped, and  
21 kill her, and rape her and that.  
22 Q Why should this jury believe you today?  
23 A Because I didn't really do it.  
24 Q On the video clip -- again, I'm talking about the  
25 one Mr. Fallon showed you?

1 A Yes.

2 Q The longer one?

3 A Yeah.

4 Q It's about 15 minutes long? You heard the  
5 questions that were asked of you by the officers?

6 A Yes.

7 Q When the officer would tell you that it wasn't  
8 your fault, how did that make you feel when  
9 you're answering the questions?

10 ATTORNEY FALLON: Objection, beyond the  
11 scope.

12 ATTORNEY FREMGEN: It was on the video.

13 THE COURT: It was. Uh, overruled. You  
14 may answer.

15 THE WITNESS: Can you repeat the  
16 question?

17 Q (By Attorney Fremgen) When the officers would  
18 tell you, this is not your fault, how did that  
19 question or how did that comment in the question  
20 make you feel?

21 A That I wouldn't be -- that I wouldn't be taken away  
22 from my family and put in jail.

23 Q No matter what you said?

24 A Yeah.

25 ATTORNEY FREMGEN: I have nothing else,

1 Judge.

2 THE COURT: Any recross?

3 ATTORNEY FALLON: No. Thank you.

4 THE COURT: All right. You may step down.  
5 We'll take a break. About, uh -- until about  
6 quarter to.

7 (Recess had at 10:24 a.m.)

8 (Reconvened at 10:56 a.m. Jury in.)

9 THE COURT: At this stage, ladies and  
10 gentlemen, uh, this is part of the defense's case.  
11 The defense has subpoenaed a witness, but the  
12 witness is not going to be available until 1:30 this  
13 afternoon; is that correct?

14 ATTORNEY FREMGEN: He's apparently  
15 leaving the crime lab shortly. Should be here by  
16 1:30.

17 THE COURT: Uh, you're finding out that  
18 scheduling witnesses is certainly not a science in  
19 the case, and I'm not even sure it's an art, but  
20 in -- in any event, that's what's -- that's what  
21 occurred, or that's what's occurring at this stage.  
22 And he will be your only witness this afternoon?

23 ATTORNEY FREMGEN: This afternoon. The  
24 next witness we have would take about, we're  
25 guessing, somewhere between five, five-and-a-half

1 hours.

2 THE COURT: Tomorrow.

3 ATTORNEY FREMGEN: We'll begin first thing  
4 Mon -- uh, tomorrow morning, correct.

5 THE COURT: All right. So with that said,  
6 uh, we're going to adjourn until 1:30 this  
7 afternoon. Thank you.

8 (Recess had at 10:58 a.m.)

9 (Reconvened at 1:44 p.m. Jury in)

10 THE COURT: Mr. Fremgen.

11 ATTORNEY FREMGEN: Judge, at this time we  
12 would call Mike Riddle.

13 THE COURT: Right up here, sir. Just  
14 remain standing.

15 THE CLERK: Please raise your right hand.

16 **MICHAEL RIDDLE,**

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: Michael Riddle, R-i-d-d-l-e.

22 **DIRECT EXAMINATION**

23 BY ATTORNEY FREMGEN:

24 Q Mr. Riddle, what is your current employer?

25 A I'm a latent print examiner with the State Crime Lab

1 in Madison.

2 Q Why don't you pull the microphone just a little  
3 bit closer to you. And how long have you been  
4 working in that capacity?

5 A Uh, be 15 years in August.

6 Q What, uh, generally, are your duties and  
7 responsibilities as a -- a fingerprint analyst  
8 for the crime lab?

9 A We receive evidence from, uh, local sheriff and  
10 police departments to process for presence of latent  
11 finger or palm prints. If we do get prints on an  
12 item and they're compared to standard fingerprint or  
13 palm-print cards in attempt to make an  
14 identification.

15 Q You've testified as an expert in fingerprint  
16 analysis in prior cases in the state of  
17 Wisconsin?

18 A Yes, I have.

19 ATTORNEY FREMGEN: I believe at this  
20 time, Judge, the State has no objection to  
21 qualifying this individual as an expert in this  
22 field.

23 THE COURT: Is that correct?

24 ATTORNEY GAHN: That's correct, Your  
25 Honor.



1 THE COURT: All right. It's stipulated  
2 then.

3 ATTORNEY FREMGEN: We'll avoid a number of  
4 other questions that way.

5 Q (By Attorney Fremgen) I see you have a file with  
6 you. Is that the file in regards to this  
7 investigation?

8 A Yes, it is.

9 Q If you need to refer to that while you're  
10 testifying, if you can just indicate that you  
11 need do to do so before you do.

12 A Okay. Thanks.

13 Q Thank you. Can you, uh, briefly explain why  
14 analyzing fingerprints is an important  
15 investigative tool?

16 A Because of the uniqueness and individualness of  
17 fingers, uh, no two fingerprints on -- are alike on  
18 any person or persons, so if we are able to find a  
19 latent print on an item, it does indicate that that  
20 item was touched at some point in time by that  
21 particular individual, uh, to the exclusion of all  
22 others.

23 Q Is this an exact science?

24 A Yes, it is.

25 Q Can you, uh, uh, briefly describe what it is that

1       you're looking for, as a fingerprint analys --  
2       when you're doing a fingerprint analysis, in  
3       regards to, say, comparing a known fingerprint to  
4       an unknown fingerprint?

5   A   Well, the first thing I do is if you can see a  
6       pattern type. There's only three basic patterns on  
7       fingerprints, and it's a whorl, or a loop, uh, or an  
8       arch. Um, looking at the standard, if I see that a  
9       person has all loops, which is fairly common, and the  
10      latent fingerprint I have is -- is a whorl, then I  
11      don't have to look any further. I can automatically  
12      exclude that print.

13               Uh, if I do get two pattern types that  
14      are the same, then I look for individual  
15      characteristics within that pattern area in order  
16      to make an identification.

17   Q   What ways do you, as -- or as, let's say, a crime  
18       tech individual, who may be lifting prints and --  
19       and you can describe what that means, but what  
20       ways, uh, are there available to you, or those  
21       persons, um, extracting or developing a  
22       fingerprint for purposes of comparison, can you  
23       describe the ways that you go about to do that?

24   A   There's several different ways, and usually it  
25       depends upon the nature of the surface as to what

1 method of development we use to bring out a  
2 fingerprint.

3 A -- a latent print is also called a  
4 hidden print, which means it's invisible and has  
5 to be brought out or developed by the use of  
6 powders or chemicals.

7 If we have a real nice, smooth surface,  
8 um, such as a piece of glass, then we can just  
9 use regular fingerprint powders, develop the  
10 print that way, and we can photograph it, and  
11 preserve it. Um, and we either do or do not lift  
12 it. It depends. Uh, if we have -- have it  
13 captured with a photograph, there really isn't  
14 any nec -- isn't necessary to go any farther.

15 Um, but, many times, we'll put some  
16 lifting tape, which is like a clear, plastic  
17 tape, and we'll rub it on top of the print, pick  
18 it up, and put it on a backer.

19 If we're using -- if we're using a white  
20 powder, we'll -- can put it on a black backer so  
21 that we can see the contrast, and if we're using  
22 a -- a darker powder, then we'll put it on a  
23 white or a clear backer so we can see it.

24 Um, other items that are more porous,  
25 such as paper, cardboard, uh, we have to use

1 chemicals in order to develop those prints. Uh,  
2 there's one particular chemical we use called  
3 Ninhydrin, and it reacts to the amino acids in  
4 the fingerprints. So when we, uh, processed  
5 that, either brush it on, or spray it on, um,  
6 it'll develop into kind of a purple fingerprint.  
7 Brings out all the ridge detail.

8 Uh, there's also Superglue, which we use  
9 on semi-porous items. Put it in a tank where  
10 there's superglue fumes, and the fumes will  
11 adhere to the fatty acids in the fingerprint.

12 Uh, after that's accomplished, we can  
13 either powder it and lift it, or we can enhance  
14 it further by the use of dye stains and look at  
15 it under a laser.

16 Q Now, you were referring to latent prints --

17 A Yes --

18 Q -- for the most part?

19 A -- that's correct.

20 Q There are other types of prints; correct? For  
21 instance, visible prints?

22 A There's visible prints, known as, uh, pat -- patent  
23 prints, and there's also ink impressions, uh, we get  
24 from our fingerprint standards, like on a fingerprint  
25 card.

1 Q What are plastic prints? Have you heard that  
2 term before?

3 A Uh, yes. It's either a plastic or a molded  
4 impression, and these are impressions that might be  
5 left in clay, putty. Um, oftentimes if a burglar  
6 tries to get in through a window that's puttied, we  
7 can find molded prints inside there.

8 Q If someone leaves a print in dust, for instance,  
9 what would -- would that be able to be, um,  
10 lifted under some of the -- what you discussed in  
11 regards to latent prints, or is that more  
12 appropriate to be somehow preserved as like a  
13 plastic print?

14 A Well, in -- in a dust print, um, we don't get a whole  
15 lot of those, because what normally happens, if a  
16 surface is real dusty and the hand or fingers touches  
17 that dusty item, it lifts the -- it lifts the dust  
18 away, and it may leave an impression looking like a  
19 finger was there, but there usually is no ridge  
20 detail, uh, at all. So there's not much we can do  
21 with it. We can try supergluing it and see if we can  
22 develop ridge detail, but on dusty surfaces, it -- it  
23 usually doesn't work very well.

24 Q Is it possible to use digital photograph of a  
25 print, whether it be visible or plastic, for

1 instance, to be able to preserve the print  
2 without, actually, physically touching the print?

3 A Yes, it's possible. Um, we -- we use standard three  
4 by five format film, uh, not -- not digital, to  
5 capture our prints. Although, we do get many prints  
6 in from other agencies that they've used digital  
7 camera to take them.

8 Q For instance, the FBI, I think, has developed a  
9 methodology, and -- for that tech -- technology  
10 for, uh, extracting prints using digital  
11 photographs; is that correct?

12 A That's correct.

13 Q Now, in -- in this case, uh, you -- you were  
14 called in at some point to assist in the  
15 investigation? The Halbach case?

16 A Yes, I was.

17 Q And you were -- you'd have -- well, how would it  
18 occur? Did -- did the, uh, lead investigators  
19 contact you and ask you to look at items that may  
20 have either visible or latent prints?

21 A Well, when the vehicle was located and -- and brought  
22 (sic) to the lab, that's where I started my  
23 involvement in it. And, uh, we don't get a lot of  
24 vehicles in there, but when we do get them in the  
25 identification section, we'd sort of rotate, uh, and

1 I was -- happened to be up at that time. That's how  
2 I got that vehicle.

3 Q One second. You mentioned the vehicle. Is this  
4 the vehicle you're referring to?

5 A Yes, it is.

6 Q And when you -- you -- You, uh, for instance,  
7 examined the vehicle for possible prints; is that  
8 correct?

9 A That's correct.

10 Q Did you view the -- the vehicle once it was at  
11 the crime lab, or did you, actually, physically  
12 come to the crime scene to -- to view the -- uh,  
13 the vehicle where it was found?

14 A All my work was done strictly at the crime lab.

15 Q So you weren't a field -- you weren't involved in  
16 the field operations of this investigation?

17 A No, I was not.

18 Q So, now, at the crime lab, you observed this  
19 vehicle. Did you observe any visible prints when  
20 you, uh, examined the vehicle?

21 A Yes, I did.

22 Q And were you able to, um, somehow preserve those  
23 prints?

24 A Uh, the prints were powdered and developed that way,  
25 and then they were photographed. Um, after the -- I

1 looked at the photographs and determined that they  
2 were of value for identification, then I attempted to  
3 lift them. Um, however, the -- for some reason or  
4 another, they did not lift real well off the vehicle.

5 Q But you did first photograph the print before  
6 attempting the lift?

7 A That's correct.

8 Q Okay. So you were able to also make -- do your  
9 own observation of the photograph and compare to,  
10 let's say, for instance, a known sample?

11 A That's correct.

12 Q In this case, do you recall what items of the  
13 Rav 4 that you, um, examined and were able to  
14 eith -- either photograph or actually lift a  
15 possible print from?

16 A Yes. The outside of the vehicle, all those prints  
17 that I found there were mostly -- ma -- majority of  
18 them were on the rear or the side of the vehicle.  
19 Uh, those were all powdered and then photographed,  
20 preserved in that way. Um, there was other items  
21 inside the car. A water bottle. I've got a list if  
22 you want me to read off the list.

23 Q If -- if you recall?

24 A I don't recall all the items on there, but they --  
25 they were -- they were processed inside the lab a



1           little bit differently. The vehicle on the outside  
2           was processed in the garage. Uh, obviously, I can't  
3           take that into my lab area. But the vehicles that I  
4           took out -- excuse me -- the, um, items that I took  
5           out from the inside of the vehicle were, uh, taken  
6           back into the lab area and placed in a fuming tank,  
7           uh, where they were superglued and then powdered.

8                       Um, I don't know if I -- I don't think I  
9           had any of those photographed, though, because  
10          they were -- I just lifted them.

11       Q    When you, uh, examined the exterior of the  
12           vehicle, in doing so, did you look at what would  
13           be considered obvious points of potential entry  
14           that might leave a visible or latent print?

15       A    Well, obviously, we look at -- at door handles,  
16           and -- and areases (phonetic) like that to see if we  
17           can develop prints. I didn't see any visible in  
18           those areas except for on the back door. Uh, course  
19           the whole vehicle, itself, was powdered, because not  
20           all the prints would be visigle (phonetic) visible to  
21           the naked eye.

22                       Um, the -- the ones that were visible  
23           appeared like they had been left in some type of  
24           a substance, whether it'd been grease or  
25           something, because I think that's the reason they

1           wouldn't lift. It'd actually dried on the  
2           vehicle and I couldn't -- I couldn't lift  
3           anything off of it.

4       Q     Before I leave this exhibit, specifically, on the  
5           back of the Rav 4, you can't see very clearly in  
6           this picture, but do you recall there's a spare  
7           tire or some sort of tire on the back end?

8       A     That's correct, there was.

9       Q     And there's a cover -- some sort of cover on  
10          that?

11      A     That's correct.

12      Q     Did you note any -- what appeared to be a swipe  
13          mark or some sort of a hand, palm print type of  
14          marking?

15      A     It actually appeared to be a whole handprint, um, on  
16          the tire cover, itself. The problem with that is,  
17          like I was saying before, this was really dirty, the  
18          back of the tire cover was, and -- and rather than  
19          actually leaving ridge detail behind, that's actually  
20          a blank spot where they lifted the dirt up off of --  
21          where it probably adhered to their fingers when they  
22          removed their hands.

23                   Uh, I did take the cover off and fume it  
24          in -- in attempt to get other prints off of it,  
25          but nothing developed. As I said, it was very

1           dirty and dirt is not a good medium for  
2           fingerprints.

3       Q     So you attempted to, actually, lift a print off  
4           of it. Unable to do so?

5       A     I -- I didn't attempt to lift in -- in using lifting  
6           tape. I -- I attempted to develop one. Um, there  
7           was nothing to develop, so there was nothing to lift.

8       Q     From the photograph you took of that, you  
9           didn't -- I'm sorry. You did take a photograph  
10          as well?

11      A     Uh, they -- photographs were actually taken by Brian  
12          Werner (phonetic) who is our forensic photographer at  
13          the lab. But, yes, I had him photograph it first.

14      Q     And you had an opportunity to review the  
15          photograph, too?

16      A     Yes, I did.

17      Q     Were you able to find any sort of ridge  
18          formations? Were you able to provide any sort of  
19          a -- a comparison from?

20      A     There was no ridge detail on back of that tire cover  
21          that was suitable for comparison.

22      Q     Were there any, what appeared to be, clear  
23          indications of a hand or palm print on any other  
24          vehicle parts of the exterior of the vehicle?

25      A     Yes, there was. The other palm print was on the rear

1 of the vehicle. Um, it's actually on the side rear.  
2 I think it was the driver's side rear quarter panel  
3 almost right close to the back door.  
4 Q By pointing to this area, would be in this area  
5 on this picture?  
6 A Right. Yeah.  
7 Q And, again, was it your ability to -- were you  
8 able to photograph that apparent palm or  
9 handprint?  
10 A Yes, we were.  
11 Q Were you able to extract any sort of physical  
12 print from that?  
13 A Yes, we were.  
14 Q And were you able to match that to any known  
15 sample that was provided to you?  
16 A No, I was not.  
17 Q Now, specifically, in this case, you were  
18 provided with a number of family members of the  
19 Avery family; correct?  
20 A That's correct.  
21 Q And at one point you were provided with Brendan  
22 Dassey's, uh, I believe it was fingerprints and  
23 palm print?  
24 A That's correct, I was.  
25 Q Were you able to compare -- or did you do a

1 comparison of that print from the side of the  
2 vehicle with the known print from Brendan Dassey?  
3 A Yes, I did.  
4 Q Were you able to make a match?  
5 A No, I was not.  
6 Q I'm going to show you what's been marked -- and  
7 that last one, by the way, for the record, was  
8 Exhibit 141. I show you what's been marked as  
9 Exhibit 144. You had mentioned that in the  
10 interior of the vehicle there was some items that  
11 you attempted to lift the prints from. May have  
12 actually done so; correct?  
13 A That's correct.  
14 Q If you can see -- I'll provide you with a  
15 pointer.  
16 A Okay.  
17 Q Do you see any items on the interior of the  
18 vehicle that you were able to obtain some  
19 comparable prints from?  
20 A Um, I believe that's a water bottle right in there I  
21 know of, and another one right here, possibly. I  
22 think there was a total of three water bottles. And  
23 I did get some prints off of, uh, either one or two  
24 of those that I was able to lift.  
25 Q Were you able to obtain any usable prints from

1 the black CD case?

2 A I'm going to have to refer to my notes, if you don't  
3 mind.

4 Q That's fine.

5 A Yes, I was.

6 Q So, you -- can you tell, from your notes, then,  
7 what, exactly, from the interior of the vehicle,  
8 you were able to extract a usable or comparable  
9 print?

10 A Yes. From my notes -- well, from my report, I was  
11 able to get them off of, uh, about five different  
12 items in the vehicle. For one, um, there was a -- a  
13 crunchy granola wrapper that I was able to get a -- a  
14 latent print off of that was suitable. Uh, one of  
15 the Aquafina water bottles that were in there.

16 The, um, um, black plastic CD case,  
17 which is right there, and another partially full  
18 bottle of Aquafina water.

19 Q And from these items from the interior of the  
20 vehicle, were you able to match with any of the  
21 known samples provided to you during this  
22 investigation?

23 A No, I was not.

24 Q And, specifically, later, you were provided with  
25 Brendan Dassey's prints? Again, palm prints and

1 fingerprints?

2 A That's correct.

3 Q Were you able to match anything from those

4 interior items, which -- with the known, uh,

5 sample from Brendan Dassey?

6 A No, I was not.

7 Q Do you recall, at anytime during this

8 investigation, when you were asked to assist law

9 enforcement, were you ever asked to, um, examine

10 and determine if there were any prints on shell

11 casings?

12 A No, I was not.

13 Q So, if I were to show you a box of shell casings,

14 you would never have looked at those; correct?

15 A No.

16 Q So, you would have no idea if there were any

17 available prints, either latent or otherwise,

18 that could be drawn from those casings?

19 A No.

20 Q I'm going to show you what's been marked Exhibit

21 82 on the big screen, and do you recall, at

22 anytime during your involvement in the

23 investigation, having an opportunity to, um,

24 examine and determine if there were any usable

25 prints from the item that's on the screen?

1 A Yes. The headboard was submitted to the lab, and I  
2 processed that. And I was able to develop, uh, one  
3 print suitable for comparison, and identified that  
4 one as, um, being from Steven Avery.

5 Q So that was the only print that you were able to  
6 find?

7 A That's correct.

8 Q I'm going to show you what's been marked as  
9 Exhibit 107. Do you recall, at anytime during  
10 your involvement in this investigation, being  
11 provided with this Blackjack creeper in the  
12 middle of the picture?

13 A No, I was not.

14 Q So, if there were any prints, you wouldn't be  
15 able to tell us whether or not there were any  
16 there; correct?

17 A No. I never examined that item.

18 Q Do you recall, specifically, what items were  
19 actually provided to you to look at?

20 A The only other one that was provided to me, that I  
21 didn't collect myself out of the vehicle, I believe,  
22 was the headboard.

23 Q So, no leg irons or handcuffs were provided to  
24 you?

25 A No, they were not.



1 Q The gun, itself, was not provided to you --

2 A No.

3 Q -- to look at?

4 A No, it was not.

5 Q This bleach bottle here?

6 A No.

7 Q Okay. I suppose I could go through each item of  
8 evidence with you, and the answer would be you  
9 didn't look at any of -- anything else other than  
10 what you've already testified to?

11 A That's correct.

12 Q And no known -- or no prints matched Brendan  
13 Dassey; correct?

14 A No, they did not.

15 ATTORNEY FREMGEN: Okay. I have nothing  
16 else, Judge. Thank you.

17 THE COURT: Cross.

18 ATTORNEY GAHN: Thank you, Judge.

19 **CROSS-EXAMINATION**

20 BY ATTORNEY GAHN:

21 Q Do you do any training in, uh, DNA, uh, lifting  
22 prints around the state or for any law  
23 enforcement agencies?

24 A I -- I do training in, um, the evidence tech school.  
25 At times, I'll go in there and teach latent print

1 comparison and latent print development.

2 Q And when you teach, um, at the tech -- the  
3 evidence technician schools, do you teach them  
4 which surfaces are more amenable to getting  
5 prints from than others?

6 A Yes, I do. I give them my experience as far as what  
7 I have and have not been able to get prints from in  
8 the past.

9 Q And do you believe that the evidence technicians,  
10 after attending that training, are capable of  
11 making those decisions on what to send for  
12 possible print analysis?

13 A I would assume so, yes.

14 Q Could you tell the jurors some of the factors  
15 that play into, uh, whether a surface might be a  
16 good surface to capture a fingerprint?

17 A Well, actually, it depends on two things. It depends  
18 upon the surface, and it also depends on -- on the  
19 nature of the person's skin. Uh, some people with  
20 normally very dry hands don't leave lot of  
21 fingerprints. Uh, or if they have very rough hands,  
22 let's say they're construction workers or brick  
23 masons or something, that's going to erode and wear  
24 down the fingerprints, they leave very bad  
25 impressions.

1                   Um, the best surfaces that we have to  
2                   develop prints off would be something that's very  
3                   smooth, um, such as, glass, uh, uh, vehicle side  
4                   was a -- was a good medium for it. Uh, the  
5                   headboard I was lucky to get a print. Wooden  
6                   items usually don't do so well.

7                   Uh, very, very small items are  
8                   difficult, because it doesn't leave enough of  
9                   a -- a -- enough of a fingerprint pattern on them  
10                  to be able to identify. Uh, we get syringes in  
11                  all the time, and they want to get the top of the  
12                  syringes to see if we can develop prints on  
13                  those. And I have. But there's just not enough  
14                  individual characteristics to put in that pattern  
15                  area to be able to identify the print.

16       Q       I'm going to ask, um, Detective Wiegert to just  
17               bring you up one of our exhibits, uh, that  
18               Mr. Fremgen talked to you about, and what --  
19               Exhibit 128. And I'd ask you to just, uh, look  
20               at -- These are shell casings which were  
21               recovered from the garage of Steven Avery. Um,  
22               could you talk to the jurors a little bit about  
23               your, uh, opinion on the chances of getting  
24               fingerprints from an item that size and, uh,  
25               explain the factors involved in that?

1 A I suppose it is possible. I have probably processed  
2 over a thousand of these, and not one time have I  
3 ever gotten a fingerprint suitable for comparison.  
4 The best I've ever been able to do is maybe get a  
5 little bit of ridge detail on there. But it -- it  
6 wouldn't be enough for an identification at all.

7 Another factor involved is, when these  
8 are shot, they get hot, and the heat isn't very  
9 good on a fingerprint either. So you have two  
10 factors going against them. One, the size of it,  
11 and, two, what the heat does to the fingerprint.

12 Q And are these examples of your experiences that  
13 you teach evidence technicians when you go to the  
14 technical schools and teach?

15 A Yes, they are.

16 Q And this is what the evidence technicians at the  
17 law -- local law enforcement agencies learn from  
18 you?

19 A Well, either from me or whoever happens to be  
20 teaching their class at that time, yes.

21 Q And they, therefore, are capable of making  
22 decisions on what to send forward to the crime  
23 lab for analysis?

24 A Yes, they are.

25 Q Can fingerprints -- prints be cleaned off an

1 object or wiped off?

2 A Oh, most assuredly. They're very fragile. They're  
3 made 98.5 percent water. Uh, so wiping them off,  
4 it'd be very easy.

5 Q And when you, uh, examined the Rav 4, Teresa  
6 Halbach's Rav 4, did you also -- did you,  
7 yourself, do the inventory of those items that  
8 you found in the Rav 4?

9 A Yes, I did.

10 Q And did you know that it was Teresa Halbach's Rav  
11 4?

12 A Yes, I did.

13 Q And, um, the -- the fingerprints that you found,  
14 uh, you found identifiable prints, I believe, you  
15 testified to, on two water bottles; is that  
16 correct?

17 A That's correct.

18 Q A CD case?

19 A That's correct.

20 Q And a granola wrapper?

21 A That's correct.

22 Q And could -- and those are items that very well  
23 could have belonged to Teresa Halbach?

24 A I suppose so, yes.

25 Q And she would have handled those?

1 A That's correct.

2 Q But did you have exemplars of Teresa Halbach to  
3 compare?

4 A No, I didn't. She had no record on file.

5 Q Did, um -- does there -- does a time ever come  
6 when you make decisions on whether to examine  
7 something for a fingerprint or maybe send it for  
8 a DNA analysis first, or maybe do a DNA first and  
9 some other tests second? Do those questions come  
10 up?

11 A It comes up all the time, yes.

12 Q Are you aware that, um -- do you know who Sherry  
13 Culhane is?

14 A Yes, I do. She's the section head of our DNA  
15 section.

16 Q And, um, when you did the inventory of the Rav 4,  
17 I'm -- did you observe there were blood stains  
18 and blood stain patterns in that Rav 4?

19 A Yes, I did.

20 Q And do you know, uh, whether Sherry Culhane  
21 tested those blood stain patterns?

22 A Yes, she did.

23 Q Now, do you know whether, um, she determined  
24 whether the blood of Steven Avery was found in  
25 that Rav 4?

1 A Yes, I do. She -- I've seen her report. She --  
2 there was her -- his blood in there.

3 Q And, um, Nick Stahlke, of your office, also  
4 issued a report that, uh, the blood stain  
5 patterns he found were indicative of an actively  
6 bleeding person; correct?

7 A That's correct.

8 Q So, uh, is it fair to assume that, uh, Steven  
9 Avery was inside that Rav 4?

10 A I believe so, yes.

11 Q Did you find his fingerprints in the Rav 4?

12 A No, I did not.

13 Q So, the absence of someone's fingerprints does  
14 not mean that the person was not at the crime  
15 scene, does it?

16 A Not at all.

17 Q Thank you, sir.

18 ATTORNEY GAHN: That's all I have.

19 THE COURT: Any redirect, Counsel?

20 ATTORNEY FREMGEN: Just a few. Excuse me.

21 Just a few.

22 **REDIRECT EXAMINATION**

23 BY ATTORNEY FREMGEN:

24 Q Do you -- do you know whether or not, uh, Brendan  
25 Dassey has characteristics of his hands that are

1           dry or greasy?

2    A    I would have to examine his hands.  I -- I couldn't  
3           tell you that.

4    Q    You can certainly say, however, that, as to the  
5           three items in the vehicle, they did not match  
6           the known sample of the fingerprint of Brendan  
7           Dassey?

8    A    No, they did not.

9    Q    Now, you mentioned that, often, smoother surfaces  
10          are easier to either find a visible or even a  
11          latent print?

12   A    Yes, they are.

13   Q    Uh, would smooth, steel handcuffs be something  
14          that might be able to extract a fingerprint from?

15   A    They could, possibly.  Again, I'd have to examine the  
16          handcuffs to be able to tell you if that surface  
17          would be good enough.  Or if they were in good shape,  
18          uh, there's a pretty good chance I could find them.  
19          But I've seen some of these cuffs that the finish was  
20          worn off and they were rusted, and in a situation  
21          like that, it'd be more difficult.

22   Q    Would these, for instance, be something that you  
23          might be able to extract a fingerprint from?

24   A    I believe so, yes.

25   Q    And I'm showing you what's been marked as Exhibit



1 92. It's actually Crime Lab Number CJ-2?

2 A Okay.

3 Q But you weren't provided with these, uh --

4 A No.

5 Q -- to review?

6 A This -- this is the first time I've seen them.

7 Q Thank you.

8 ATTORNEY FREMGEN: Nothing else.

9 RECROSS-EXAMINATION

10 BY ATTORNEY GAHN:

11 Q And, again, items can be cleaned or wiped off --  
12 uh, fingerprints wiped off or cleaned from an  
13 item?

14 A That's correct.

15 Q Thank you.

16 ATTORNEY GAHN: That's all I have also.

17 THE COURT: You may step down.

18 Mr. Fremgen, any additional witnesses this  
19 afternoon?

20 ATTORNEY FREMGEN: We'll have a  
21 psychologist who's prepared to testify at --  
22 starting at 8:30 in the morning. Take a -- probably  
23 majority of tomorrow.

24 THE COURT: All right. I take it that's a  
25 no for this afternoon?

1                   ATTORNEY FREMGEN: Sorry. No for this  
2                   afternoon, correct.

3                   THE COURT: All right. Uh, ladies and  
4                   gentlemen, I'm going to excuse you at this time.  
5                   Remember, you are not to talk about the case or  
6                   anything you've heard or anything connected with it.  
7                   Thank you.

8                   (Jury out at 2:14 p.m.)

9                   THE COURT: Counsel, before coming out here  
10                  on the record, we have a brief -- we had a brief  
11                  discussion in chambers. It's my understanding, uh,  
12                  there's some matters we should make of record this  
13                  afternoon. Mr. Kratz, I'm going to turn to you  
14                  first. You may or may not have a motion or an  
15                  argument?

16                  ATTORNEY KRATZ: I do, Judge. If I  
17                  could have just a moment to grab my materials.  
18                  Thank you, Judge. As this Court recalls, a  
19                  motion was argued in a pretrial manner regarding  
20                  the admissibility of testimony of a Dr. Robert  
21                  Gordon. Dr. Gordon provided this Court through,  
22                  um, videotape testimony, uh, with something  
23                  called an offer of proof, which is expected trial  
24                  testimony, and based an opinion on what  
25                  Dr. Gordon believed evidence at this trial was

1 going to establish.

2 Dr. Gordon, as this Court knows, uh,  
3 has, uh, opined in a, uh, written report, and in  
4 his offer of proof, that, uh, Brendan Dassey, uh,  
5 was, in fact, an individual who was, uh, using  
6 his term now, "vulnerable to suggestibility".

7 The State had objected in a, uh, oral  
8 argument, as well as a, uh, written provisions to  
9 the Court, to Dr. Gordon's testimony, noting that  
10 this kind of evidence has not been, uh, admitted  
11 in the state of Wisconsin, at least to this  
12 point. And whatever, uh, marginal relevance  
13 there may be, uh, is certainly outweighed by the  
14 danger of confusion, uh, of the jury, or unfair  
15 prejudice.

16 Um, nonetheless, uh, the Court, uh,  
17 reasoned, in a pretrial decision, that Dr. Gordon  
18 would be allowed to testify, uh, as to the area  
19 of suggestibility, again, based upon, uh, an  
20 offer of proof.

21 Uh, I recall, and I'm sure, um, the  
22 Court, uh, has a recollection as to, um, my  
23 argument, both oral and written, uh, cautioning,  
24 uh, this Court as to its pretrial ruling prior to  
25 even knowing what the trial testimony was going

1 to be, especially as it relates to foundation or  
2 to relevance. And what I argued, Judge, was that  
3 it's going to depend on who is going to testify  
4 in this trial that Brendan Dassey's statements  
5 were the product of suggestibility.

6 In other words, that somebody had to  
7 come before this Court and claim that Brendan  
8 Dassey's statements to law enforcement officials,  
9 uh, were, in fact, the product of law enforcement  
10 behavior, law enforcement, uh, suggestibility,  
11 or, at the very least, some coercive practices by  
12 law enforcement, for Dr. Gordon's testimony to  
13 ever be relevant.

14 Uh, relevance, uh, of course, is, uh --  
15 is well-defined, and this Court included, uh,  
16 that in its, uh, pretrial ruling. And I'm not  
17 going to, uh, reargue or belabor that. I agree  
18 with the Court's, uh, definition and explanation  
19 as to relevance.

20 Uh, now, however, we're at the point in  
21 the trial where we don't have to guess as to what  
22 the trial testimony is going to be. We don't  
23 have to call it an offer of proof anymore, or,  
24 uh, expect or, um, uh, presuppose what some trial  
25 testimony may be. We've now heard what the

1 defense theory of the case is, what the defense  
2 version is, and as, uh, announced by this Court,  
3 and as predicted by the State in my written  
4 brief, Brendan Dassey, himself, has testified and  
5 has provided to the Court, uh, with a version of  
6 events or an explanation as to, uh, the  
7 admissions, or what we've referred to as the  
8 confession, given, uh, in this case.

9 Uh, importantly, Judge, uh, Mr. Dassey  
10 today, uh, when testifying in this trial, said  
11 nothing of suggestibility despite Mr. Fremgen's  
12 best efforts, uh, in continuing to ask Mr. Dassey  
13 about, uh, things like suggestibility.  
14 Mr. Dassey's responses, when he didn't say, "I  
15 don't know", um, Mr. Dassey's, uh, response was  
16 something called confabulation. That is, that he  
17 made it up. That he made up the, uh, version of  
18 events that he told law enforcement officials.

19 Confabulation is, of course, um,  
20 absolutely a separate, uh, concept than  
21 suggestibility. Uh, and when Mr. Dassey and the  
22 defense, through Mr. Fremgen and, uh,  
23 Mr. Edelstein, who, I assume, knew what  
24 Mr. Dassey was going to testify about today,  
25 present that theory of defense, and that theory

1 is, uh, devoid of any mention of suggestibility,  
2 well, then, Dr. Gordon's testimony just simply no  
3 longer becomes relevant.

4 Uh, this Court's pretrial, uh, uh, order  
5 and ruling, which, uh, the State respects, uh,  
6 very much, must simply -- uh, is no longer based  
7 upon, uh, what the trial evidence is in this  
8 case.

9 When Mr. Dassey explains, uh, that, uh,  
10 the version of events given to law enforcement  
11 is, uh, the product of -- of fabrication, or even  
12 if, uh -- if we believe that it's the product of,  
13 uh, some memory several years ago of some book  
14 that he may or may not, uh, have read, uh, it is  
15 just not suggestibility.

16 Uh, I then, uh, and at this time, renew  
17 my motion, ask the Court to reconsider its  
18 finding as to Dr. Gordon's testimony. We're  
19 asking that Dr. Gordon's testimony be excluded.  
20 We don't believe there is any foundation in this  
21 record, uh, nor is there any relevance, uh, to,  
22 uh, Dr. Gordon's ultimate opinion that, uh,  
23 Mr. Dassey is vulnerable to suggestibility.

24 Now, we understand that this Court has  
25 already limited Dr. Gordon's testimony. This

1 Court's already previously indicated that  
2 Dr. Gordon can't talk about whether the  
3 confession was true or false. That is, uh,  
4 whether it was a false confession. Can't talk  
5 about a coercion or the circumstances  
6 surrounding, uh, the, uh, interrogation. And  
7 although there are experts that can talk about  
8 that, Dr. Gordon admits that he's not one of  
9 those kind of, uh, individuals. But his testing  
10 and his opinion, uh, as limited to  
11 suggestibility, uh, simply, uh, is not, uh,  
12 relevant. Would ask the Court revisit and  
13 exclude the testimony.

14 Alternatively, Judge, uh, we are asking,  
15 if the Court continues to allow Dr. Gordon's, uh,  
16 testimony, uh, in this case, despite, uh, the  
17 lack of foundation for his testimony, uh, we  
18 would ask the Court, uh, reassert or restate, uh,  
19 just what it is that Dr. Gordon can testify  
20 about. Just what is relevant about Dr. Gordon's  
21 testimony based upon the record currently, uh,  
22 before this Court.

23 We certainly don't want to be in a  
24 position where we're needlessly objecting during,  
25 um, uh, direct examination, uh, or that the, uh,

1 State, unnecessarily, uh, has to cross-examining  
2 -- cross-examine, uh, Dr. Gordon, uh, on issues  
3 that, uh, may, in fact, not be allowed through  
4 this Court's, um -- this Court's orders.

5 Lastly, Judge, at the conclusion of this  
6 motion, that is, at the conclusion of my motion  
7 to exclude, or the renewal of my motion to  
8 exclude, uh, I would ask, also, to place on the  
9 record the, uh, State's request to call, if  
10 necessary, rebuttal witnesses.

11 But I have, uh, unfortunately, gotten  
12 ahead of myself, and I'm just alerting the Court  
13 that we do have that issue to discuss as well.  
14 That's all the, uh, comments I have regarding  
15 Dr. Gordon's issue. Thank you, Judge.

16 THE COURT: Response?

17 ATTORNEY FREMGEN: Uh, just a little -- a  
18 brief one. Well, I'll try to be brief. The State,  
19 uh, began its, uh, argument by indicating that, uh,  
20 um, they expected Dr. Gordon to testify as to what  
21 evidence would indicate in this trial. Well, I  
22 don't think that's ever been what we've offered to  
23 this Court. And I'm certain that's not what the  
24 order of this Court is.

25 What we've offered, previously, is that



1 the doctor would testify as to his conclusions  
2 based upon his evaluation of Brendan, his review  
3 of the collateral information, which included,  
4 uh, the videotape statement that was shown in  
5 this court, as well as other statements that had  
6 not been provided to the jury, and he would also,  
7 uh, testify as to the different tools of  
8 evaluation, the different, um, um, tests that he  
9 actually conducted, and -- and the purpose for  
10 those tests, including the Gudjonsson  
11 Suggestibility Test.

12 We intend to offer the same testimony  
13 with the same limitations that the Court imposed  
14 on his testimony per the order of April 5. The  
15 State's argument today is that there needs to be  
16 additional foundation, essentially, or that there  
17 hasn't been a sufficient foundation placed on the  
18 record for the doctor's testimony.

19 Part of what the State argues is --  
20 well, I -- I think maybe he misspoke, but  
21 Mr. Kratz said foundation as to suggestion or  
22 coercion. We've never once indicated that  
23 Dr. Gordon would ever testify as to any coercion.  
24 In fact, he even, in the offer of proof, said I  
25 don't have the ability to do that and would not

1 offer his, uh, uh, opinion as to the officer's,  
2 uh, techniques in regards to coercion.

3 So that was never an option. It was  
4 never going to be something offered to the Court.  
5 The indication that we provided to the Court,  
6 with the limitations in the order, simply that he  
7 would be testifying about the issue of  
8 suggestibility, or vulnerable to suggestion, as I  
9 think he referenced in his report.

10 So far, the testimony on direct and on  
11 cross of the defendant was that, as to many  
12 questions, he answered, I don't know why. When  
13 asked why he would admit to a serious offense,  
14 such as sexual assault, or first degree  
15 intentional homicide, his answer is, I don't know  
16 why.

17 At -- I probably could count up, on the  
18 transcript, and come up with at least 20 or 25  
19 times that that came out. There were times in  
20 final cross by Mr. Fallon that -- that this idea  
21 of confabulation came up, but there's equal or  
22 more, um, testimony in regards to why he did what  
23 he did, and his answers were, I don't know why.

24 Our intention is to wrap up what we've  
25 started with all the witnesses, with the --

1       Officer Wiegert and with Detective O'Neill, for  
2       that matter. Attorney Edelstein's questioning of  
3       the -- at least with Detective Wiegert was,  
4       essentially, 90 percent suggestibility issues.  
5       Promises, lies, suggestion, um, and leading.

6               With Dr. -- with Detective O'Neill,  
7       there was a number of questions about suggestion,  
8       leading, promises. In fact, the State brought up  
9       the subject when the State says there's devoid of  
10      anything in the record about suggestibility. The  
11      State, on cross of the school counselor, asked  
12      her about suggestibility. So the issue has been  
13      raised by the State as well. We would certainly  
14      object to the ruling changing the original  
15      ruling.

16             And as far as offering to the State some  
17      sort of a, um -- a road map of where I intend to  
18      go, or some, uh, formalized transcript of the  
19      question and answers that I intend to -- to  
20      elicit from the -- the doctor, I guess I would  
21      offer, again, we will follow what the Court  
22      ordered, the offer of proof with the limitations  
23      that this Court has set upon the testimony, and  
24      as to providing to the State some sort of heads  
25      up as -- so to speak, I guess I would just

1 mimick what the State has told me throughout  
2 this trial, I'll question my witnesses how I  
3 want, without having to answer to the State.

4 And, so, I -- I would follow the order  
5 that the Court placed on us, and I don't believe  
6 that there has been, uh, this lack of foundation  
7 that the State is suggesting with the -- the  
8 Court, now, to change the ruling before in  
9 regards to Dr. Gordon.

10 THE COURT: Mr. Kratz, any response?

11 ATTORNEY KRATZ: I don't have any.

12 Thank you, Judge.

13 THE COURT: All right. Uh, is -- both  
14 parties have noted the Court has had an opportunity,  
15 prior to this day, to take up the issue of  
16 Dr. Gordon and any testimony that he might have to  
17 offer. The Court ruled that Dr. Gordon's  
18 testimony -- and -- and I did this based on a couple  
19 of things, or based on, uh, the instance of seeing a  
20 proposed offer of proof from the defense by way of  
21 DVD and, as well, uh, the testimony educed by  
22 Mr. Kratz at a cross-examination of Dr. Gordon.

23 Uh, under Section 9-0-7-0-2 of the  
24 Wisconsin Statutes, uh, expert witness testimony  
25 is permitted if the proffered testimony is

1 relevant, if it will assist the trier of fact in  
2 some way, shape or form, if the expert is  
3 qualified, and if the testimony that's going to  
4 be offered is not supler -- superfluous or a  
5 waste of time. This all stems from a case called  
6 **State vs.**, uh, **Walstad** at 119 Wis. 2d 483.

7 I found, uh, initially, that all of  
8 these qualifications were met. Uh, there also is  
9 a secondary line of reasoning that can  
10 occasionally be employed. Namely, that, by  
11 virtue of the 6th Amendment of the  
12 U.S. Constitution and Article 1 Section 7 of the  
13 Wisconsin Constitution, a defendant should have  
14 the right to present a defense. And while I  
15 didn't make a finding, directly, on that point, I  
16 think I alluded to it, at least collaterally, in  
17 arriving at the ruling.

18 Mr. Kratz says, uh, in effect, that,  
19 based on the testimony offered by this defendant  
20 in person today, that the foundation for any kind  
21 of testimony from Dr. Gordon with respect to  
22 suggestibility is, in effect, vitiated. That is  
23 to say, taken away.

24 Uh, that his testimony -- uh,  
25 Dr. Gordon's testimony no longer becomes relevant

1 and, thus, it misses on the first, uh, uh, step,  
2 the first prong, of the test of whether or not  
3 it -- it should be used in this case.

4 Uh, I'm not going to recede from the  
5 ruling that I -- I handed down before. I think  
6 what we, uh, have, at best today, is testimony  
7 that doesn't go to the admissibility of anything  
8 Dr. Gordon has to say.

9 And, again, what Dr. Gordon is -- as I  
10 understand it -- going to testify to, that based  
11 on a number of tests that he administered this  
12 defendant, based on the age of the defendant,  
13 based on the defendant's, uh, limited, uh,  
14 cognitive abilities, that this defendant falls in  
15 the category that, scientifically, has been  
16 adjudged as being a category of persons being  
17 more suggestible or vulnerable to, uh, same  
18 things that aren't necessarily true.

19 I think that Dr. Gordon's testimony is  
20 still relevant. I think that he is a qualified  
21 expert. I think that his familiarity with the,  
22 uh, Gudjonsson Suggestibility Scale, and the  
23 other tests that were given to, uh, support  
24 whatever opinions he's going to give, uh, are all  
25 as good today as they were before.

1                   Now, with that said, it may be, again,  
2                   that while his testimony is cer -- I believe  
3                   admissible, uh, it is up to the jury as to what  
4                   weight that testimony should -- should give.  
5                   They are the -- they are the persons that  
6                   determine the weight.

7                   I also find that I -- I do not believe,  
8                   based on anything I've heard today or during the  
9                   course of the trial, that his -- his testimony  
10                  would be, uh, superfluous.

11                  Accordingly, I'm going to deny, uh, the  
12                  State's motion to exclude his testimony.

13                  ATTORNEY KRATZ: Judge, I -- and -- and  
14                  I -- and I don't mean to, uh -- to take issue  
15                  with the Court, you mentioned that the doctor  
16                  would testify to being vulnerable to saying  
17                  things that weren't necessarily true. I think  
18                  that's exactly what the Court said he could not  
19                  testify about. He's vulnerable to  
20                  suggestibility, but whether it's true --

21                  THE COURT: I --

22                  ATTORNEY KRATZ: -- or not true is  
23                  something this doctor cannot testify.

24                  THE COURT: Right. And -- and I did say  
25                  that, and, uh, thank you. I'll -- I'll sharpen

1           that up. He -- he can't testify as to what this  
2           defendant said as to whether it was true or  
3           false. He can testify as to the suggestibility,  
4           the vulnerability, based on the factors, but he  
5           cannot -- he cannot utter an opinion as to the --  
6           the, uh, truthfulness or falsity of anything this  
7           defendant said.

8                       ATTORNEY KRATZ: Thank you, Judge. As  
9           to my, uh, second, uh, purpose for, um, alerting  
10          the Court as to, uh, the State's, uh, intent, uh,  
11          with, uh, this Court, uh, reaffirming its ruling,  
12          the State does intend to, uh, and does offer at  
13          this time, two, uh, rebuttal, uh, witnesses.

14                      Uh, one is a, um, clinical psychologist,  
15          who will directly, uh, rebut Dr. Gordon's  
16          testimony as to the testing, IQ, and what, uh,  
17          uh, opinions, uh, may be drawn, uh, therefrom.  
18          His name is Dr. James Armentrout. Uh, we,  
19          previously -- uh, previously, meaning earlier  
20          today. I don't mean to indicate, because of the  
21          rebuttal nature, that it was, uh, other than  
22          today, but, uh, informed defense counsel of our  
23          intent to, uh, call Dr. Armentrout as a rebuttal  
24          witness.

25                      But, secondly, Judge, and something that



1 we have alerted the Court and, uh, counsel to,  
2 uh, earlier, uh, was our intent to call an  
3 expert, uh, in the, um, areas as to the  
4 interrogative process. This Court may recall, as  
5 part of Dr. Gordon's, uh, offer of proof,  
6 Dr. Gordon indicated that he was not an expert on  
7 issues of interrogation strategy or circumstance,  
8 but that such experts do exist. Dr. Gordon, uh,  
9 conceded that fact to both -- uh, in court and on  
10 his, uh, DVDs.

11 The, uh, suggestion, and the effect of  
12 the matter is, then, uh, as to the area of  
13 suggestibility, uh, there is a -- a prong, if you  
14 will, as to the testing, and -- and the, uh, um,  
15 IQ, and the age, and the, uh, vulnerability to  
16 suggestibility that psychologists talk about, but  
17 the other part of that that Dr. Gordon talked  
18 about was the circumstances surrounding the  
19 interrogation, the strategies, and, uh -- and the  
20 like, that, uh -- that were employed, and what,  
21 um, after reviewing a specific, um,  
22 interrogation, uh, what opinions can be drawn  
23 therefrom.

24 State intends, as the defense and the  
25 Court knows, uh, to call a, uh, Mr. Joseph

1 Buckley, uh, the president, as I believe, of, uh,  
2 Reid and Associates, uh, author, uh, and expert,  
3 uh, on issues of the interrogative process.

4 Uh, with the Court, uh, having, uh,  
5 reaffirmed this ruling, uh, we simply offer that.  
6 If the Court, uh, needs, uh, or the Court wishes  
7 some further, uh, offer of proof or sharpening  
8 of, uh, that partic -- uh, uh, Mr. Buckley's, uh,  
9 relevance, or his intended testimony, we can  
10 certainly do that. A report has been tendered to  
11 the Court and to, uh, the defense as to, uh,  
12 Mr. Buckley's, uh, intended testimony. If I  
13 could have just a moment here, Judge.

14 And, Judge, uh, you may want to just  
15 take judicial notice of the report of Mr. Buckley  
16 that has, uh, been provided to the Court, should  
17 Mr. Buckley's testimony be allowed. We'll  
18 certainly have that marked as a trial exhibit and  
19 will be officially offered at that time.

20 That's all I have as to, uh, again, just  
21 by way of, uh, alerting the Court and Counsel,  
22 uh, as to the State's intended rebuttal case.  
23 Thank you.

24 THE COURT: All right. Uh, does the  
25 defense wish to be heard on this, now? Rebuttal, of

1 course, is at the discretion of the Court, and it --  
2 it may be you want to wait until you hear what  
3 Dr. Gordon has to say. Although, I suspect,  
4 Mr. Buckley's rebuttal may have as much to do with  
5 the cross-examination of Investigator Wiegert as it  
6 does with anything that, uh -- that Dr. Gordon may  
7 say.

8 ATTORNEY FREMGEN: Up to the Court. I -- I  
9 don't think that Dr. Gordon's testimony,  
10 necessarily, is going to be indicative of what our  
11 position is with, uh, uh, Mr. Mead (phonetic).  
12 Um -- Or, Buckley? I'm sorry. Mr. Buckley.

13 THE COURT: Yeah.

14 ATTORNEY FREMGEN: Uh, our -- essentially,  
15 and let me first answer the first comment about, uh,  
16 Dr. Armentrout. Um, the only thing I would ask from  
17 the State, if, at the time he testifies, if there is  
18 any sort of summary of his, uh, impressions laid to  
19 some written form, that we be provided a copy prior  
20 to his testimony. Whether that be the second he  
21 sits down, however the State wishes to provide it,  
22 would be great. Also a CV. I mean, we provided our  
23 curriculum vitae of our doctor. If we could have  
24 Dr. Armentrout's sometime before he testifies, we  
25 would appreciate that as well.

1                   However, as to, um, uh, Mr. Buckley, we  
2                   have three essential positions as to why we don't  
3                   think it's relevant. Number one, it's not a  
4                   unique subject that this trier of fact, the jury,  
5                   needs assistance to understand.

6                   Um, in fact, they've had two witnesses,  
7                   already, talk about it. Both detectives.  
8                   Detective O'Neill and -- and, uh, Investigator  
9                   Wiegert have testified that they are trained in  
10                  deceptive practices, um, superior knowledge,  
11                  whatever language is used to explain why they  
12                  lied, promised, lead, or suggest to a -- a -- a  
13                  interviewee in order to get information or  
14                  extract information they want.

15                  So, it's already -- it's a point, I  
16                  won't say, necessarily, cumulative, but it  
17                  certainly has been, um, uh, developed and  
18                  addressed by the State.

19                  It also seems to be somewhat of a  
20                  vouching of the State's witness. Officer -- uh,  
21                  Mr. Buckley would be testifying, essentially,  
22                  that the officer's testimony that this is how  
23                  we're trained and this is just simply, uh, uh, an  
24                  interview technique would be a -- be an offer to  
25                  sim -- simply, um, vouch for the voracity of the

1 officer's testimony in that regard.

2 And we also believe that, uh, there are  
3 some comments in the report about what is  
4 corroborated and what is not that impedes and  
5 infringes upon what this jury's role is. And --  
6 and the attorneys can certainly suggest to the  
7 jury, this is corroborated and this is  
8 uncorroborated. And that's fine. But I think  
9 it's different having a witness get up there and  
10 say, I've reviewed what the police officers did  
11 in this case, and let me tell you, jury, this is  
12 what they did right, and this is what they found,  
13 and this is why you can find this person guilty.  
14 I don't think that is the role of a expert.

15 Experts should be offering some sort of  
16 testimony that, number one, has to be relevant to  
17 some sort of material issue, which we don't  
18 think, necessarily, is -- that there is enough,  
19 uh, with this offer as of yet, and, number, two,  
20 we certainly have to say there is nothing that  
21 indicates that this trier of fact needs  
22 assistance to understand that.

23 In fact, I believe, in opening,  
24 Mr. Kratz mentioned to the jury, comments about  
25 officers', uh, questioning and why people don't

1 admit to things that they didn't do, especially  
2 as serious as a homicide, because it's just human  
3 nature. You all understand that. Quote,  
4 unquote. That was what Mr. Kratz said to the  
5 jury.

6 Well, if they understand it, then why do  
7 they need an expert? So I don't think it's  
8 necessary.

9 THE COURT: All right. Mr. Kratz, getting  
10 to you, uh, with respect to Dr. Armentrout, Counsel  
11 was asking for a copy of his CV and, as well, any  
12 sort of summary that you might be able to supply,  
13 even if it's at the 11th hour? Are you able to  
14 accommodate him on both those counts?

15 ATTORNEY JONES: Well, Judge, there is no  
16 written report. There is no summary. Uh,  
17 Dr. Armentrout's, uh, opinions will be based, uh,  
18 solely and entirely upon what's been provided, uh,  
19 by Dr. Gordon. So, the -- the -- the materials  
20 that, uh, uh, Dr. Armentrout will be drawing from,  
21 they already have.

22 The CV, uh, is something that I will ask  
23 to be faxed, and we'll try to get that, uh --  
24 we'll try to get that, uh, here, Judge, and --  
25 and, uh, accommodate, out of courtesy, uh, uh,

1 the defense.

2 Um, did you ask me something else?

3 I've --

4 THE COURT: No.

5 ATTORNEY KRATZ: -- forgotten. Then  
6 I'll be quiet.

7 THE COURT: No. We'll -- we'll get to  
8 the -- the issue of what, if anything, Mr. Buckley  
9 can testify to based, uh -- based on, in part, what  
10 we hear tomorrow, and, in part, uh -- I want to  
11 review the -- the -- the report, uh, again. Report  
12 was handed -- I believe I got it on Friday from --  
13 from the State.

14 ATTORNEY KRATZ: Might I suggest, Judge,  
15 that on Wednesday we might convene in court,  
16 perhaps, at, uh, 8:00 a.m. and, uh, get some  
17 direction. We expect Mr. Buckley to testify in  
18 the morning, and I think that is probably  
19 appropriate that everybody, not just the State,  
20 but that the defense, has fair notice about the,  
21 uh, scope of what he'll be allowed to testify  
22 about.

23 THE COURT: That's fine.

24 ATTORNEY FREMGEN: Thank you.

25 THE COURT: Any other matters today,

1 gentlemen?

2 ATTORNEY KRATZ: Nothing for today.

3 Thank you, Judge.

4 THE COURT: All right? I'll see you  
5 tomorrow at 8:30.

6 (Court stands adjourned at 2:42 p.m.)

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I, Jennifer K. Hau, Official Court  
Reporter for Circuit Court Branch 3 and the State  
of Wisconsin, do hereby certify that I reported  
the foregoing matter and that the foregoing  
transcript has been carefully prepared by me with  
my computerized stenographic notes as taken by me  
in machine shorthand, and by computer-assisted  
transcription thereafter transcribed, and that it  
is a true and correct transcript of the  
proceedings had in said matter to the best of my  
knowledge and ability.

Dated this 11<sup>th</sup> day of December, 2007.

Jennifer K. Hau  
Jennifer K. Hau, RPR  
Official Court Reporter

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