

Case No. 122654

IN THE  
SUPREME COURT OF ILLINOIS

ALAN BEAMAN,	)	
	)	
	)	
Plaintiff-Appellant,	)	On Appeal from the
	)	Appellate Court of Illinois,
	)	Fourth Judicial District,
v.	)	No. 4-16-0527
	)	
TIM FREESMEYER, Former Normal	)	There Heard on Appeal from
Police Detective; DAVE WARNER,	)	the Circuit Court of McLean County,
Former Normal Police Detective;	)	Illinois, No. 14 L 51
FRANK ZAYAS, Former Normal	)	
Police Lieutenant;	)	
and TOWN OF NORMAL, ILLINOIS,	)	
	)	
Defendants-Appellees.	)	

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APPENDIX OF PLAINTIFF-APPELLANT ALAN BEAMAN  
VOLUME I

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**FILED**

August 4, 2017

Carla Bender

4<sup>th</sup> District Appellate

Court, IL

2017 IL App (4th) 160527

No. 4-16-0527

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

ALAN BEAMAN,	)	Appeal from
Plaintiff-Appellant,	)	Circuit Court of
v.	)	McLean County
TIM FREESMEYER, Former Normal Police	)	No. 14L51
Detective; DAVE WARNER, Former Normal	)	
Police Detective; FRANK ZAYAS, Former	)	
Normal Police Lieutenant; and THE TOWN OF	)	Honorable
NORMAL, ILLINOIS,	)	Richard L. Broch,
Defendants-Appellees.	)	Judge Presiding.

JUSTICE KNECHT delivered the judgment of the court, with opinion.  
Justices Harris and Steigmann concurred in the judgment and opinion.

**OPINION**

¶ 1 In 2008, the Illinois Supreme Court overturned plaintiff's conviction for the murder of his ex-girlfriend, Jennifer Lockmiller, upon concluding the State violated his right to due process when it failed to disclose material and exculpatory information about an alternative suspect. *People v. Beaman*, 229 Ill. 2d 56, 890 N.E.2d 500 (2008). In April 2014, plaintiff initiated this action, alleging defendants, Tim Freesmeyer, Dave Warner, and Frank Zayas, former officers with the Normal police department, acted maliciously in investigating him and aiding in his prosecution. Against these individual defendants, plaintiff asserted claims of malicious prosecution, intentional infliction of emotional distress, and conspiracy. Plaintiff requested damages from defendant, the Town of Normal, on theories of *respondeat superior* and

**APPENDIX 000001**

indemnification.

¶ 2 In June 2016, the trial court, finding no genuine issue of material fact as to plaintiff's claims of malicious prosecution, granted defendants' motion for summary judgment. Plaintiff appeals, arguing, in part, a reasonable jury could find in his favor on each of the elements of his malicious-prosecution claim. We affirm.

¶ 3 I. BACKGROUND

¶ 4 A. Lockmiller's Murder and the Investigation

¶ 5 On August 28, 1993, the body of Jennifer Lockmiller, a 21-year-old student at Illinois State University, was found in her Normal, Illinois, apartment. Lockmiller's shirt was pulled up, exposing her breasts. Her shorts and underwear were down around one of her legs. The electrical cord of an alarm clock was around Lockmiller's throat. A pair of scissors protruded from her chest. A box fan had been placed over Lockmiller's face. Lockmiller died from ligature strangulation with the cord of the alarm clock. The investigators found no one who had seen Lockmiller alive after her class ended at 11:50 a.m. on August 25, 1993.

¶ 6 A number of police officers from the Normal police department were involved in the investigation. These officers included defendants Tim Freesmeyer, a detective; Dave Warner, a detective; and Frank Zayas, a lieutenant. Early in the investigation, starting in October or November 1993, Freesmeyer served as the principal detective on the investigation. Warner's role included serving as an evidence custodian and investigating one of the suspects, Stacey Gates. Zayas supervised the detectives who worked on the investigation until he retired in November 1994. Other individuals involved in the investigation included Charles Reynard, the McLean County State's Attorney, and James Souk, assistant State's Attorney (ASA). Souk acted as the

lead prosecutor in plaintiff's criminal case.

¶ 7 As Lockmiller's apartment showed no sign of forced entry, the police focused the investigation on individuals Lockmiller knew. The police questioned Lockmiller's then-current boyfriend, Michael Swaine, as well as former boyfriends, including plaintiff, Stacey Gates, and Larbi John Murray. Swaine, who was once plaintiff's roommate, had an alibi. On August 25, 1993, the date Lockmiller was murdered, Swaine was working at a bookstore in Elmhurst, Illinois. Gates, who had moved to Peoria to be closer to Lockmiller, also had an alibi. Records from a Peoria school showed Gates was at work on August 25.

¶ 8 Through their investigation, police learned Murray was Lockmiller's drug dealer. The two had also been lovers. Murray was twice interviewed by police. Initially, Murray reported leaving town on August 24, 1993. Murray's girlfriend, Debbie Mackoway, however, told police they did not leave town until the afternoon of August 25. Murray then amended his story, and his version was consistent with Mackoway's report. Murray informed officers he was alone at home before 2 p.m. on August 25. Murray resided 1.5 miles from Lockmiller. Murray had a criminal history. He faced charges of drug possession with intent to deliver and of domestic violence for the abuse of Mackoway. According to Mackoway, Murray also began using steroids, which caused him to behave erratically. Both cocaine and steroids had been found in Murray's apartment. Murray agreed to submit a polygraph examination. At the start of the examination, Murray failed to follow instructions. The examiner terminated the examination.

¶ 9 The police focused their investigation on plaintiff. Plaintiff and Lockmiller began dating in July 1992. Their relationship was tumultuous. According to letters found in Lockmiller's apartment, plaintiff wanted their relationship to be monogamous, but he suspected

Lockmiller saw other men. The two ended and rekindled their relationship multiple times over the following year. In that time, Lockmiller also became involved with Swaine, plaintiff's roommate.

¶ 10 At the time of Lockmiller's murder, plaintiff was residing with his parents in Rockford, Illinois. Rockford is approximately two hours from Normal by car. The State's theory of the case was that on August 25, plaintiff, after visiting a Rockford bank at 10:11 a.m., drove to Normal, killed Lockmiller at noon, and returned to Rockford, where his mother saw him in his room at 2:15 p.m. Freesmeyer, by performing a time trial, was able to establish plaintiff could have made the trip in the time allotted by driving over the speed limit the entire way.

Freesmeyer, in another time trial, found it impossible for plaintiff to have made a 10:37 a.m. call from the residence he shared with his parents after having been at the bank at 10:11 a.m. In this time trial, however, Freesmeyer took the slower route and obeyed speed limits.

¶ 11 The investigation recovered seven fingerprints from the alarm clock. Two belonged to plaintiff, four to Swaine, and one remained unidentified.

¶ 12 During the investigation, investigators interviewed David Singley, Lockmiller's neighbor. Singley informed investigators he arrived home from class at 2 p.m. on August 25 and heard someone slam the door to Lockmiller's apartment. Singley stated he heard the stereo, the door open and close a second time, and footsteps. Singley also reported noticing, around 4:30 p.m., the stereo was off and the television had been turned on.

¶ 13 On May 16, 1994, a meeting was held to determine whether to arrest plaintiff for Lockmiller's murder. Those in attendance included State's Attorney Reynard, ASA Souk, Freesmeyer, Zayas, Normal police chief James Taylor, and Detective Tony Daniels. During the

meeting, Reynard decided to charge plaintiff. Souk agreed. At his deposition, Daniels testified he suggested a list of investigative avenues to pursue before arresting plaintiff. Souk responded, “I think we’ve got our guy” and stated, “we went as far as we can with this case.” Souk stated they were going to go ahead and issue a warrant for plaintiff’s arrest.

¶ 14 As of August 29, 1993, Souk had concluded plaintiff was the only suspect. He did not believe Murray had a motive to kill Lockmiller. While prosecuting plaintiff, Souk knew Murray provided Lockmiller with narcotics and marijuana and conflicting statements had been made about whether Lockmiller owed Murray money. Souk also knew Murray made a mistake regarding his alibi and corrected that mistake in a second interview. Souk did not find the mistake suspicious. At the time of the trial, Souk knew Murray began taking steroids in January 1994 and he had begun acting erratically. Before that time, Murray had not been physically violent toward Mackoway.

¶ 15 Before trial, the State filed a motion *in limine* to exclude evidence of Lockmiller’s relationships with men other than plaintiff and Swaine. The trial court reserved ruling on the motion. Later, the State and plaintiff’s defense counsel discussed Lockmiller’s relationship with an individual identified as “John Doe,” who was Murray. Souk told the court Doe had “nothing to do with the case.” Souk had not disclosed to plaintiff’s trial counsel Murray’s criminal records, which exposed his drug and steroid use as well as the incidents of domestic violence, or the incomplete polygraph examination. Plaintiff’s trial counsel had no specific evidence pointing to another individual who could have committed the offense. The trial court granted the motion *in limine*.

¶ 16 B. Plaintiff’s Trial and Conviction

¶ 17 At trial, evidence established plaintiff, then a student at Illinois Wesleyan University, used Lockmiller's alarm clock to wake up for class. During the course of their relationship, plaintiff stayed the night at Lockmiller's up to four or five times a week.

¶ 18 Lockmiller's neighbor, Mike Singley, testified at trial. During the 1993 spring semester, Singley on multiple occasions heard plaintiff pounding on Lockmiller's door late at night. He also reported hearing plaintiff and Lockmiller yelling at each other.

¶ 19 Plaintiff testified, on an unspecified night that same spring, Lockmiller called him to end their relationship. Plaintiff went to Lockmiller's residence to retrieve his compact disc player. Upon arriving at the apartment, plaintiff observed "John Doe's" car in the parking lot. Plaintiff pounded on Lockmiller's apartment door. Lockmiller refused to let him enter her apartment. Plaintiff continued pounding on the door and began kicking it, causing the door to break. Plaintiff discovered Doe and Lockmiller inside the apartment. Plaintiff grabbed his compact disc player and left. He yelled while inside the apartment but made no physical contact with Doe or Lockmiller.

¶ 20 Evidence established another incident during which plaintiff forcefully broke Lockmiller's apartment door. In the summer of 1993, Lockmiller was in a relationship with Michael Swaine, plaintiff's roommate. One night in July 1993, plaintiff suspected Swaine was at Lockmiller's apartment. He broke the apartment door by pounding and kicking it. Upon entering the apartment, plaintiff did not see Swaine. Plaintiff verbally confronted Lockmiller but made no physical contact. Plaintiff remained at the apartment for 30 to 45 minutes.

¶ 21 Plaintiff testified his night shift at his uncle's grocery store ended at 9 a.m. on August 25. Plaintiff drove home to retrieve some cash and a check. He drove to the bank to make

a deposit. Plaintiff's trip to the bank was confirmed by a bank security videotape that showed him leaving the bank at 10:11 a.m. Plaintiff returned home and slept until 5 p.m.

¶ 22 Telephone records demonstrated two calls were made from the Beaman residence at 10:37 and 10:39 a.m. on August 25. The first call was to the Beaman's church, the second to the church's director of music and youth ministries. Only two people could have made those calls: plaintiff or his mother, Carol Beaman. Plaintiff did not recall placing those calls but stated he could have done so. Carol denied making the calls. She testified she left the Beaman residence around 7 a.m. and drove to her mother's assisted-living facility. Carol took her mother to the clinic and returned to the facility around 10 a.m. Carol testified she spent 15 to 20 minutes with her mother inside the facility before driving to the Walmart store across the street. A receipt shows Carol checked out at Walmart at 11:10 a.m. after having purchased copy paper, poster frames, blue jeans, and magazine holders. Before returning home, Carol drove to other stores. Her last stop was a grocery store, where she purchased perishable items. She checked out at 2:03 p.m. and headed home. Carol testified she was home by 2:16 p.m., but she had previously told officers she arrived home around 3 p.m. When Carol arrived home, she noticed plaintiff's car in the driveway. Carol awoke plaintiff for dinner at approximately 6 p.m.

¶ 23 Freesmeyer testified regarding road tests he performed to test plaintiff's opportunity to murder Lockmiller. According to Freesmeyer, the distance between plaintiff's bank and Lockmiller's apartment was 126.7 miles. Freesmeyer's test indicated plaintiff, having left his bank at 10:11 a.m., could have arrived at Lockmiller's apartment before noon if plaintiff drove 10 miles per hour over the speed limit. Freesmeyer further testified 139.7 miles separated the Beaman residence and Lockmiller's apartment. He averred plaintiff could have made that trip

in just under two hours if he drove at a speed 10 miles per hour over the posted limit.

¶ 24 Freesmeyer performed a road test from plaintiff's bank to the Beaman residence to see if it was possible to make the phone call from the Beaman residence at 10:37 a.m. He testified he drove through downtown Rockford, the "most direct route," obeyed all speed limits, and concluded it took 31 minutes to make the trip. Freesmeyer concluded plaintiff would have arrived at 10:42 a.m. Freesmeyer testified it took him 15 minutes to drive from the Beaman residence to the Walmart Carol shopped at on August 25. On cross-examination, Freesmeyer acknowledged plaintiff did not state he drove through downtown Rockford on August 25. Freesmeyer also agreed the route he took was through downtown Rockford and not on "the high speed bypass" around the city.

¶ 25 In rebuttal argument, the State argued all of the other possible suspects were excluded due to alibis: "Did we look at Mr. Swaine? You bet we did. Did we look at [Gates]? You bet we did. Did we look at a lot of people and interview a lot of witnesses? You bet we did. And guess who sits in the courtroom \*\*\* with the gap in his alibi still unclosed even after all this?"

¶ 26 The jury found plaintiff guilty of first degree murder. He was sentenced to 50 years' imprisonment. On direct appeal, a majority affirmed plaintiff's conviction. *People v. Beaman*, No. 4-95-0396 (May 23, 1996) (unpublished order under Supreme Court Rule 23).

¶ 27 C. Proceedings on Plaintiff's Petition for Postconviction Relief

¶ 28 In April 1997, plaintiff filed a petition for postconviction relief. Subsequently, several amendments were made to the petition. In its final form, plaintiff alleged, in part, the State violated his right to due process by failing to disclose material information regarding

Murray's viability as a suspect. An evidentiary hearing was held on plaintiff's petition. After an evidentiary hearing, the circuit court denied the postconviction petition. This court, with Justice Cook dissenting, affirmed the denial. *People v. Beaman*, 368 Ill. App. 3d 759, 772, 858 N.E.2d 78, 91 (2006).

¶ 29 In 2008, the Illinois Supreme Court found the State violated plaintiff's constitutional right to due process of law when it failed to disclose the evidence related to Murray and reversed the circuit court order denying his postconviction petition. *People v. Beaman*, 229 Ill. 2d 56, 81-82, 890 N.E.2d 500, 514-15 (2008). The supreme court summarized the undisclosed evidence as consisting of four points: "(1) [Murray] failed to complete the polygraph examination; (2) [Murray] was charged with domestic battery and possession of marijuana with intent to deliver prior to [plaintiff's] trial; (3) [Murray] had physically abused his girlfriend on numerous prior occasions; and (4) [Murray's] use of steroids had caused him to act erratically." *Id.* at 74, 890 N.E.2d at 511. The supreme court concluded the State's case against plaintiff "was not particularly strong" and "tenuous," supporting the admission by plaintiff "of the similarly probative alternative suspect evidence on" Murray. *Id.* at 77-78, 890 N.E.2d at 512. The supreme court further found, "[w]e cannot have confidence in the verdict finding petitioner guilty of this crime given the tenuous nature of the circumstantial evidence against him, along with the nondisclosure of critical evidence that would have countered the State's argument that all other potential suspects had been eliminated from consideration." *Id.* at 81, 890 N.E.2d at 514.

¶ 30 Plaintiff's conviction was vacated and remanded. The State declined to re-prosecute plaintiff and dismissed the charges against him. Plaintiff was released from prison in

June 2008, and the State of Illinois, in April 2013, certified his innocence. *Beaman v. Freesmeyer*, 776 F.3d 500, 505 (7th Cir. 2015). The Governor of Illinois pardoned plaintiff “based upon innocence as if no conviction.”

¶ 31 D. Plaintiff’s Federal Civil Suit

¶ 32 In January 2010, plaintiff filed a section 1983 complaint (42 U.S.C. § 1983 (2006)) against defendants Freesmeyer, Warner, and Zayas as well as against Souk, Reynard, and other detectives. Plaintiff alleged three federal claims: (1) defendants acting individually and in conspiracy withheld exculpatory evidence in violation of *Brady v. Maryland*, 373 U.S. 83 (1963) (individual liability); (2) defendants conspired to deprive plaintiff of exculpatory evidence (conspiracy liability); and (3) defendants failed to intervene to prevent the violation of his rights. *Beaman*, 776 F.3d at 505. Plaintiff included state law claims for malicious prosecution, civil conspiracy, and intentional infliction of emotional distress against the Town of Normal. *Id.*

¶ 33 The claims against Souk and Reynard were dismissed based on absolute immunity or qualified immunity. *Id.* at 506. The claims against the other detectives, individuals who are not named defendants in this case, were dismissed after discovery revealed those detectives were not involved in the suppression of evidence. *Id.*

¶ 34 The district court granted summary judgment on the federal claims to the remaining defendants, Freesmeyer, Warner, and Zayas, and the Seventh Circuit affirmed. The court found insufficient evidence from which a jury could infer an agreement between the defendants to withhold the Murray evidence. *Id.* at 513. The Seventh Circuit concluded “[t]he defendants did not falsify any physical evidence or use any knowingly false testimony at trial.”

*Id.* at 512. As to Freesmeyer, the Seventh Circuit discounted plaintiff’s argument Freesmeyer prepared a “deceptive” police report regarding the time trials. The court found “Freesmeyer did not lie about the speeds at which he drove, and he was subject to cross-examination at trial about the speeds and alternative routes.” *Id.* The court observed, “[t]his is the type of behavior that will be present in every criminal prosecution—valid pursuit of a conviction.” *Id.* The court also found “the defendants are entitled to qualified immunity for their failure to turn over the Murray polygraph report to the prosecution and Beaman’s defense counsel.” *Id.* at 510. The court did so after framing the question as to whether *inadmissible* information inculcating another suspect could be *Brady* material. *Id.* Neither the district court nor the Seventh Circuit addressed the state law claims of malicious prosecution, intentional infliction of emotional distress, or conspiracy against the Town of Normal for lack of jurisdiction. *Id.* at 506.

¶ 35

## E. Plaintiff’s State Civil Lawsuit

¶ 36

In April 2014, plaintiff filed this action against defendants Freesmeyer, Warner, Zayas, and the Town of Normal. The complaint contained five claims: (1) malicious prosecution, (2) intentional infliction of emotional distress, (3) civil conspiracy, (4) *respondeat superior*, and (5) indemnification. In his complaint, plaintiff asserted the three individual defendants played significant roles in his prosecution and wrongful conviction.

¶ 37

Plaintiff asserted Freesmeyer “advocated for, approved, and physically effected” his arrest. Plaintiff alleged Freesmeyer moved into an office in the State’s Attorney’s office to work full-time on plaintiff’s case and decided on the first day of the investigation plaintiff was “the primary suspect.” Freesmeyer did so, according to plaintiff, even though the crime scene suggested the murderer was “a perpetrator of considerable size and power” while “plaintiff was

thin and small” and Lockmiller’s drug use and “behavior” pointed to a number of other possible suspects and “unsavory characters.” Plaintiff identifies Murray as the most significant suspect in that he was a drug dealer, Lockmiller’s “sex partner,” used steroids and cocaine, beat women, and lied about his alibi.

¶ 38 Plaintiff alleged Freesmeyer had a “continued fixation on plaintiff despite [a] lack of evidence.” Plaintiff contends the evidence showed Freesmeyer and other detectives did not investigate area burglaries or sexual assaults, did not interview individuals with whom Lockmiller had been in contact before her murder, and failed to listen to other detectives “who questioned their singular fixation.” Plaintiff contends Freesmeyer doctored the time trials by driving within the speed limit and using the downtown route, not the bypass route favored by Rockford locals, in order to secure plaintiff’s conviction, thereby “creat[ing] evidence” indicating plaintiff did not make the calls from the Beaman residence. Freesmeyer further avoided telling the jury he tested the bypass route and found, had plaintiff used the bypass route, he could have made those calls. In contrast, when attempting to establish plaintiff could have made the trip to Normal, Freesmeyer drove over the speed limit. Plaintiff highlights evidence Freesmeyer threatened the death penalty during an interview of plaintiff and Freesmeyer’s repeated efforts to secretly tape inculpatory statements from him.

¶ 39 Before the trial court, plaintiff alleged Warner was liable to plaintiff for damages as a result of burying a report regarding Murray’s polygraph. The report was addressed to Warner. Warner testified he gave the report to Daniels, but Daniels had no memory of receiving it. The State’s Attorney’s office did not receive a copy. According to the report, Murray denied strangling Lockmiller and denied knowing who did. The report, however, was inconclusive,

given Murray's failure to comply with specific directions:

“Throughout the course of this polygraph examination, the subject did not follow specific directions given to him which are necessary for the proper completion of a polygraph examination.

After being advised several times to follow directions, the subject informed this examiner that he was not able to comply.

Subsequently, the subject was dismissed from this laboratory.”

¶ 40 Defendants moved for summary judgment on plaintiff's claims. Defendants maintained no evidence established a genuine issue of material fact on four of the five elements of his malicious-prosecution claim. Defendants contended, as a result, they are entitled to judgment as a matter of law on the malicious-prosecution claim and the remaining claims, which plaintiff predicated on the contention he was maliciously prosecuted.

¶ 41 F. Summary Judgment Order

¶ 42 In June 2016, the trial court granted defendants' motion for summary judgment. After listing the elements for a claim of malicious prosecution, the court found the prosecutors who handled the case, not the defendant officers, decided to prosecute plaintiff. In support, the court highlighted Daniels's deposition testimony. The court pointed to Daniels's statement that, during the May 1994 meeting with investigating officers and lead prosecutors, Souk rejected Daniels's suggestions to investigate other avenues. Souk stated the investigation was complete and an arrest warrant would be issued for plaintiff. The court explicitly found defendants “did not exert any unusual influence on the prosecutors which caused a malicious prosecution to take place against plaintiff.”

¶ 43 The trial court further found no genuine issue of material fact as to the remaining malicious-prosecution elements or to plaintiff's claims of intentional infliction of emotional distress, conspiracy, *respondeat superior*, and indemnification.

¶ 44 This appeal followed.

¶ 45 II. ANALYSIS

¶ 46 A. Summary Judgment Standard and Standard of Review

¶ 47 When considering a motion for summary judgment, the court's role is to ascertain whether a genuine issue of material facts exists and not to resolve factual questions. *Williams v. Manchester*, 228 Ill. 2d 404, 417, 888 N.E.2d 1, 8 (2008). A court should grant said motion only when the depositions, pleadings, affidavits, and admissions, viewed in the light most favorable to the nonmovant, show no genuine issue of material fact and demonstrate the movant is, as a matter of law, entitled to a judgment. *Pontiac National Bank v. Vales*, 2013 IL App (4th) 111088, ¶ 29, 993 N.E.2d 463 (citing 735 ILCS 5/2-1005(c) (West 2008)). Because summary judgment is a drastic means to resolve a case, a trial court should grant summary judgment only when the moving party's right to a judgment is clear and free from doubt. *Id.* On appeal, we review summary judgment orders *de novo*. *Rettig v. Heiser*, 2013 IL App (4th) 120985, ¶ 30, 996 N.E.2d 1220.

¶ 48 B. Malicious Prosecution

¶ 49 Under Illinois law, a claim of malicious prosecution requires proof of each of the following elements: "(1) the commencement or continuance of an original criminal or civil judicial proceeding by the defendant[s]; (2) the termination of the proceeding in favor of the plaintiff; (3) the absence of probable cause for such proceeding; (4) the presence of malice; and

(5) damages resulting to the plaintiff.” (Internal quotation marks omitted.) *Swick v. Liautaud*, 169 Ill. 2d 504, 512, 662 N.E.2d 1238, 1242 (1996). The failure to prove any one element prevents recovery on the claim. *Id.* In this case, the trial court granted summary judgment upon concluding plaintiff could not establish the first four elements of his malicious-prosecution claim.

¶ 50 We begin with the first element: “the commencement or continuance of an original criminal or civil judicial proceeding by the defendant[s].” (Internal quotation marks omitted.) *Id.* Plaintiff acknowledges defendants did not sign the criminal complaint or initiate the criminal proceedings against him, but he argues the element is satisfied so long as defendants played a “significant role” in commencing or continuing his prosecution. Plaintiff, highlighting the detectives’ conduct in (1) assisting the prosecution, (2) testifying before the grand jury, and (3) conducting time trials, contends the element requires only proof of a significant role: “[t]he standard is satisfied if a defendant played a ‘significant role’ in commencing or continuing a prosecution.”

¶ 51 The “significant role” language, used by plaintiff and in malicious-prosecution litigation, originated in *Frye v. O’Neill*, 166 Ill. App. 3d 963, 975, 520 N.E.2d 1233, 1240 (1988), a decision plaintiff relies upon. In *Frye*, we considered a malicious-prosecution claim against a police officer, not a prosecutor. *Id.* at 967, 520 N.E.2d at 1235. While the parties did not dispute whether the officer commenced or continued the plaintiff’s prosecution, this court, in defining the malicious-prosecution tort, clarified the suit could proceed against the officer even though the officer did not sign the complaint against the plaintiff. We stated the following: “Liability for malicious criminal prosecution is not confined to situations where the defendant

signed a complaint against the plaintiff. Rather, liability extends to all persons who played a significant role in causing the prosecution of the plaintiff, provided all of the elements of the tort are present.” *Id.* at 975, 520 N.E.2d at 1240 (citing 54 C.J.S. *Malicious Prosecution* §§ 18, 19 (1987)).

¶ 52 Interestingly, the language used by this court does not show a conclusion that a “significant role” would satisfy the commenced-or-continued element. We stated those who had a significant role could still be liable for malicious prosecution so long as “*all of the elements of the tort are present.*” (Emphasis added.) *Id.* Under *Frye*, the term “significant role” does not relieve the plaintiff of proving any element of malicious prosecution, including the commenced-or-continued element.

¶ 53 Tracing the use of the “significant role” language from *Frye* to other Illinois decisions shows a transition to use of the “significant role” language as proof of the commencement element without any analysis of the element and its role in malicious-prosecution suits. The First District in *Rodgers v. Peoples Gas, Light & Coke Co.*, 315 Ill. App. 3d 340, 348-49, 733 N.E.2d 835, 842 (2000), cited *Frye* as showing “liability extends to all persons who played a significant role in causing the prosecution of the plaintiff, *provided all of the elements of the tort are present.*” (Emphasis added.) The *Rodgers* court then concluded sufficient evidence precluded summary judgment against an officer who allegedly participated in a scheme to entrap the plaintiff as a question of fact existed as to “whether his actions caused the institution of the criminal proceedings.” See *id.* at 349-50, 733 N.E.2d at 842-43. The Northern District of Illinois, in *Padilla v. City of Chicago*, 932 F. Supp. 2d 907, 928 (N.D. Ill. 2013), cited *Rodgers* but dropped the “provided all of the elements of the tort are present” language and

stated, so long as the officer played a “significant role in causing the prosecution, he can be held liable.” The *Padilla* court then determined, without any further analysis of the prerequisite finding an individual commenced or continued litigation against the plaintiff, the officers commenced or continued the prosecution as the prosecutor relied on the observations of the arresting officers. *Id.* at 928-29. Similarly, the Second District in *Bianchi v. McQueen*, 2016 IL App (2d) 150646, ¶ 72, 58 N.E.3d 680, cites *Rodgers* but failed to include the “provided all of the elements of the tort are present” language and considered only whether the defendants “played a significant role in causing the prosecution of the plaintiff[s]” when evaluating whether the commenced-or-continued element was sufficiently proved.

¶ 54 We question the propriety of limiting consideration of the commencement element to only the significance of one’s role in instituting the prosecution. Such a limitation exposes police officers to undue malicious-prosecution cases for performing usual investigatory police work when a prosecutor makes a mistaken decision to pursue a conviction.

¶ 55 Defendants, on the other hand, contend proof of the element requires a causal link, such as undue influence, between the conduct of the police officer and the prosecutor’s decision to prosecute. In support of this contention, defendants largely rely on two cases: *Fabiano v. City of Palos Hills*, 336 Ill. App. 3d 635, 647, 784 N.E.2d 258, 270 (2002), and *Kim v. City of Chicago*, 368 Ill. App. 3d 648, 660, 858 N.E.2d 569, 579 (2006). *Fabiano*, however, does not support defendants’ contention. While the *Fabiano* court considered affidavits from prosecutors asserting the ASAs decided to prosecute with no influence by the officers, the *Fabiano* court did not consider or hold whether proof of undue influence was necessary. *Fabiano*, 336 Ill. App. 3d at 649-50, 784 N.E.2d at 272. The court in *Kim* concluded “the record does not

indicate that the detectives engineered plaintiff's prosecution or prevented the assistant State's Attorney from exercising her independent discretion to proceed with charges and the prosecution." *Kim*, 368 Ill. App. 3d at 660, 858 N.E.2d at 579. The court did so, however, in *dicta*, after concluding the case failed due to no evidence of a lack of probable cause and without citing or considering relevant case law.

¶ 56 Two other cases mentioned in defendants' brief, however, demonstrate, in the case of a civilian reporting a crime to a police officer, the civilian is not deemed to have commenced or continued the proceeding absent pressure or direction the officer make an arrest or knowingly providing false information to that officer. In *Denton v. Allstate Insurance Co.*, 152 Ill. App. 3d 578, 504 N.E.2d 756 (1986), for example, the court concluded judgment for the defendant insurance company on plaintiff's malicious-prosecution claim was proper because there was no evidence the defendant knowingly gave false statements to the police or pressured the officer into swearing out a complaint. *Id.* at 583-84, 504 N.E.2d at 760. The court did not examine the significance of the role the insurance company played in the prosecution, but whether the insurance company initiated the criminal proceeding or its "participation [was] of so active and positive a character as to amount to advice and cooperation." *Id.* at 583, 504 N.E.2d at 760. *Geisberger v. Vella*, 62 Ill. App. 3d 941, 943, 379 N.E.2d 947, 949 (1978), provides the same: "Such an attribution would require a showing that a defendant requested, directed, or pressured the officer into swearing out the complaint for the plaintiff's arrest or that one of the defendants knowingly gave false information to the police."

¶ 57 Recently, the Seventh Circuit Court of Appeals, when considering Illinois's malicious-prosecution law, reached a similar conclusion as to an arresting police officer's report

to a prosecutor who decided to prosecute. *Colbert v. City of Chicago*, 851 F.3d 649 (7th Cir. 2017). The court held an arresting police officer could not be held liable for malicious prosecution absent “ ‘an allegation of pressure or influence exerted by the police officers, or knowing misstatements by the officers to the prosecutor.’ ” *Id.* at 655 (quoting *Reed v. City of Chicago*, 77 F.3d 1049, 1053 (7th Cir. 1996)). The *Colbert* court observed it had previously noted malicious-prosecution cases against police officers “can often be ‘anomalous,’ ” explaining as follows:

“ ‘[T]he State’s Attorney, not the police, prosecutes a criminal action. It is conceivable that a wrongful arrest could be the first step towards a malicious prosecution. However, *the chain of causation is broken by an indictment*, absent an allegation of pressure or influence exerted by the police officers, or knowing misstatements by the officers to the prosecutor.’ ” (Emphasis in original.) *Id.* (quoting *Reed*, 77 F.3d at 1053).

The Seventh Circuit held a plaintiff must show “ ‘some postarrest action which influenced the prosecutor’s decision to indict.’ ” *Id.* (quoting *Snodderly v. R.U.F.F. Drug Enforcement Task Force*, 239 F.3d 892, 902 (7th Cir. 2001)). The Seventh Circuit examined the record to determine if there was any evidence the alleged false statement influenced the decision to indict or that the prosecutor relied on the false statement to obtain the indictment and found none. *Id.*

¶ 58 The same test used in malicious-prosecution cases against a civilian who reports a crime and in cases against arresting officers who provide information to a State’s Attorney should apply here, where police officers investigated a crime and reported findings to a State’s

Attorney who decided to prosecute the plaintiff. We hold in order to find a police officer usurped the State's Attorney's decision-making role and that officer is responsible for commencing or continuing a criminal action against a plaintiff, the plaintiff must establish that officer pressured or exerted influence on the prosecutor's decision or made knowing misstatements upon which the prosecutor relied. See *id.* This holding protects officers in their performance of their police work while allowing plaintiffs to seek redress from officers who use fabrications or exert pressure on the prosecutor to secure prosecution of the innocent.

¶ 59 We turn to the facts to determine whether sufficient evidence exists to withstand summary judgment against each individual defendant.

¶ 60 1. *Defendant Freesmeyer*

¶ 61 In asserting sufficient evidence exists for a jury question on the commenced-or-continued element in his claim against Freesmeyer, plaintiff contends Freesmeyer "headed the investigation \*\*\*, lied to the grand jury, doctored the time trials, omitted exculpatory evidence from his police reports, threatened plaintiff with the death penalty, moved into the prosecutor's office, gave misleading trial testimony, and disregarded every fact that did not fit his theory of the crime." Plaintiff does not, however, identify any facts showing Freesmeyer pressured or exerted influence on the State's Attorney and ASA's decision to prosecute plaintiff. In fact, the evidence proves otherwise. Souk testified the decision was his. Daniels, who was present at the May 1994 meeting, supported that conclusion by showing Souk shut down any effort to leave the case open.

¶ 62 None of these "facts" support a finding Freesmeyer pressured or exerted influence on Souk's decision to prosecute plaintiff. The evidence shows the prosecutors, Reynard and

Souk, made the decision to prosecute plaintiff. No witness testimony contradicts this conclusion. And, as the trial court concluded, the testimony of Detective Daniels shows Souk, during the May 1994 meeting, refused to consider additional evidence and decided it was time to prosecute plaintiff.

¶ 63 We then turn to the question of whether Freesmeyer provided false information to Souk or Reynard to influence the commencement or continuation of plaintiff's prosecution. Plaintiff's conclusory statements identify two types of evidence that were allegedly fabricated: the time trials and Freesmeyer's testimony before the grand jury. This evidence, however, does not support plaintiff's conclusion. For instance, there is no proof in the record Freesmeyer tainted or falsely reported the time trials. Indeed, the Seventh Circuit examined similar allegations against Freesmeyer and found "Freesmeyer did not lie." *Beaman*, 776 F.3d at 512. We find Freesmeyer's efforts were to show plaintiff's conduct could have fit within the State's theory of the case. "This is the type of behavior that will be present in every criminal prosecution—valid pursuit of a conviction." *Id.*

¶ 64 We disagree with plaintiff's statement Freesmeyer lied to the grand jury about his interview with Singley. Plaintiff contends Freesmeyer, ignoring Singley's statements, told the grand jury no helpful information had been learned from Lockmiller's neighbors during the investigation, but Singley's interview helped rule out plaintiff as a suspect. Freesmeyer's statement is a conclusion he did not find the information helpful:

"Q. Without going into individual details, were the other residents of the apartment building shortly after the discovery of the body, in the next few days, questioned extensively?"

A. Yes. \*\*\*.

Q. Would it be a fair summary of those interviews that all of them produced no eyewitnesses to the crime and no information that turned out [to] be particularly helpful in the investigation?

A. That's correct."

Testimony from plaintiff's trial shows Freesmeyer identified a reason for that belief:

"Q. You're aware, I take it, or you were aware very early in the investigation when Mr. Singly gave his statement of his observations about having heard doors open and close, and people walking up and down stairs at certain times on—and also air conditioning going on and off at certain times on Wednesday?

A. Yes, I'm aware of that, sir.

Q. Fairly early in the investigation did you discount Mr. Singly's observations as being inaccurate?

A. Yes, sir, I did.

\*\*\*

A. Well, first of all, nobody could pick out Mr. Swaine's vehicle from the photos we showed them. Second of all, Mr. Singly stated he heard the door, that same door open and close on Friday as he did on Wednesday, and everybody on the team was in agreement that Miss Lockmiller was deceased long before Friday. And also he stated he saw Swaine's vehicle there on Wednesday,

and I'd already spoken with Miss Betteridge from Elmhurst. She stated that Mr. Swaine was at her side until 3:15 that day. There was absolutely no way that that car could have been in Normal on Wednesday."

¶ 65 We conclude plaintiff has identified no evidence from which a reasonable jury could conclude Freesmeyer pressured or exerted influence on Souk or Reynard in making the decision to prosecute plaintiff or provided knowingly false statements leading to plaintiff's prosecution or allowing its continuation. We affirm the order granting summary judgment to Freesmeyer on this claim.

¶ 66 *2. Defendant Warner*

¶ 67 Regarding Warner, plaintiff contends a genuine issue of material fact exists as to whether Warner is liable for malicious prosecution for burying the Murray polygraph report, a report he asserts both the Northern District of Illinois and the Illinois Supreme Court found to be "material and exculpatory." In his role in the investigation, Warner was to ensure Zayas received a copy of the report, submit the report for record keeping, and disseminate copies to the investigators working on the case. Plaintiff's contention the evidence is sufficient to create a genuine issue of material fact on the commenced-or-continued element is predicated on the fact Warner's role was significant and the record was material to the case.

¶ 68 First, we note plaintiff misstates the holdings of the federal district court and our supreme court. Neither court found the failed and inadmissible polygraph result, considered alone, to be material and exculpatory. In his federal litigation against defendants, the district court found all evidence related to Murray, "[t]hough not strong evidence, *taken together*,

Murray’s erratic behavior from steroids, history of domestic assault including elbowing his girlfriend in the chest, and possible evasion during the polygraph \*\*\* suggest he could have been the culprit.” (Emphasis added.) *Beaman v. Souk*, 7 F. Supp. 3d 805, 823 (C.D. Ill. 2014). The Illinois Supreme Court plainly found the failure to disclose the information related to Warner, including the incomplete polygraph examination, the domestic battery and drug charges, the prior physical abuse of his girlfriend, and his use of steroids and erratic behavior, material. *Beaman*, 229 Ill. 2d at 58-59, 74-75, 890 N.E.2d at 502-03, 510-11.

¶ 69 We find the evidence does not create a genuine issue of material fact on the question of whether Warner commenced or continued the prosecution. No evidence shows Warner encouraged or exerted pressure on Souk to prosecute. No evidence shows Warner knowingly provided Souk false information. It would be speculative for a jury to find a polygraph report, indicating only that the test was incomplete due to a failure to follow instructions, would have had any bearing on Souk’s decision to prosecute plaintiff. In his deposition, Souk testified Murray had no motive to kill Lockmiller. Souk knew about Murray when he decided to arrest plaintiff. During the prosecution, Souk knew Murray and Lockmiller had been involved sexually. Souk knew Murray had made two separate statements about the time he left town, meaning Murray potentially lied and Murray was in town when Lockmiller was murdered. During the prosecution of plaintiff and before plaintiff’s trial, Souk learned of Murray’s steroid use and erratic behavior and the domestic abuse allegations, and he continued prosecuting plaintiff. Souk already knew Murray’s character was questionable. The report did not establish a motive to murder Lockmiller or provide evidence establishing Murray as the killer—the two bases for Souk’s decision ruling out Murray as a suspect.

¶ 70 The trial court properly granted summary judgment in Warner’s favor.

¶ 71 *3. Defendant Zayas*

¶ 72 Plaintiff made three allegations regarding Zayas’s role leading to his prosecution:

(1) Zayas participated in the May 1994 meeting, during which the decision was made to prosecute plaintiff; (2) Zayas supervised the detectives who worked on the case; and (3) Zayas allowed the arrest to occur, knowing the “case was half-baked.” Plaintiff, however, points to no evidence from which a jury could conclude Zayas commenced or continued the criminal suit against him. No evidence shows Zayas pressured or exerted influence over Reynard and Souk’s decision to prosecute, and there is no evidence of any false statements by Zayas to the prosecutor. Because plaintiff cannot establish the first element of his malicious-prosecution claim, Zayas is entitled to summary judgment.

¶ 73 *C. Intentional Infliction of Emotional Distress*

¶ 74 The trial court held plaintiff’s claim of intentional infliction of emotional distress was based and contingent upon his malicious-prosecution claims against defendants and granted summary judgment on that claim. On appeal, plaintiff’s only challenge to that holding is the conduct in “pursuing plaintiff’s conviction maliciously, disregarding and manipulating the evidence, and sending an innocent man to prison for a dozen years for a crime he could not have committed” constitutes extreme and outrageous conduct. Plaintiff fails to develop this argument or cite relevant authority. He has forfeited this claim. Ill. S. Ct. R. 341(h)(7) (eff. Jan. 1, 2016); see also *Elder v. Bryant*, 324 Ill. App. 3d 526, 533, 755 N.E.2d 515, 521-22 (2001) (“Mere contentions, without argument or citation of authority, do not merit consideration on appeal.”).

¶ 75 *D. Conspiracy*

¶ 76 The elements of a civil-conspiracy claim are as follows: (1) a combination of two or more individuals, (2) for the purpose of accomplishing by concerted action an unlawful purpose or a lawful purpose by unlawful means, (3) in the furtherance of which one of the conspirators committed an overt tortious or unlawful act. *Fritz v. Johnston*, 209 Ill. 2d 302, 317, 807 N.E.2d 461, 470 (2004). The tortious or unlawful act alleged is defendants' alleged malicious prosecution of plaintiff. Because we have found defendants Freesmeyer, Warner, and Zayas are entitled to summary judgment on plaintiff's malicious-prosecution claims, plaintiff cannot establish the third element of his civil-conspiracy claim. We affirm the trial court's order granting summary judgment to defendants on plaintiff's conspiracy claim.

¶ 77 E. *Respondeat Superior* and Indemnification Claims

¶ 78 Plaintiff, on appeal, acknowledges the *respondeat superior* and indemnification claims are dependent on the claims against the individual defendants. Given our finding summary judgment was properly granted on the individual claims, we conclude the trial court properly granted summary judgment on the *respondeat superior* and indemnification claims.

¶ 79 III. CONCLUSION

¶ 80 We affirm the trial court's judgment.

¶ 81 Affirmed.

STATE OF ILLINOIS  
CIRCUIT COURT  
SIXTH JUDICIAL CIRCUIT

CHAMBERS OF  
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CIRCUIT JUDGE  
NELLIE B. GILPIN  
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June 22, 2016

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Re: Alan Beaman, Plaintiff,

vs.

Tim Freesmeyer, Dave Warner, Frank Zayas and Town of Normal, Illinois,  
Defendants.

McLean Co. Case # : 2014-L-51

C12494

APPENDIX 000027

Dear Counsel:

This date, I have entered the following Order in the above-entitled cause, to-wit:

“Cause removed from advisement this date as to hearing on the Defendant’s Motion For Summary Judgment. The Court has considered the pleadings, depositions and any admissions on file together with any affidavits, and has viewed those in the light most favorable to the non-moving party. Having done so, the Court finds that there is no genuine issue as to any material fact as alleged in Plaintiff’s Five- Count Complaint, and that the moving party is entitled to a judgment as a matter of law.” Defendant’s Motion For Summary Judgment is therefore granted.”

The Court specifically finds as follows:

1. Plaintiff, Alan Beaman, (hereafter referred to as “plaintiff”), has filed a five-Count Complaint in state court against defendants, Tim Freesmeyer, former Normal Police Detective, (hereafter referred to as “ Freesmeyer”); Dave Warner, former Normal Police Detective, (hereafter referred to as “Warner”); Frank Zayas, former Normal Police Lieutenant, (hereafter referred to as “ Zayas”); and Town of Normal, Illinois, (hereafter referred to as “Town of Normal”).
2. Count I alleges Malicious Prosecution by all of the defendants and others, including other investigators and McLean County prosecutors, acting individually, jointly, and in conspiracy, in that they initiated and continued a prosecution against plaintiff, knowing that probable cause did not exist to arrest and prosecute him for the arrest of Jennifer Lockmiller.
3. Count II alleges Intentional Infliction of Emotional Distress, in that the acts and conduct of the individual defendants set forth, were extreme and outrageous in that they willfully and maliciously framed plaintiff for a crime he did not commit; specifically, that defendants' actions were rooted in the abuse of power, and were undertaken with intent to cause, or were in reckless disregard of the probability that their conduct would cause, severe emotional distress to plaintiff. The specific misconduct described in this Count was allegedly undertaken with malice, willfulness and reckless indifference to the rights of others.

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APPENDIX 000028

4. Count III alleges Civil Conspiracy, in that defendants, acting in concert with one another, and with other investigators and McLean County prosecutors, conspired by concerted action to accomplish an unlawful purpose by unlawful means; specifically that defendants entered into an agreement in or around August, 1993, to maliciously prosecute plaintiff for the murder of Jennifer Lockmiller, knowing there was no probable cause to do so, in order to close the Lockmiller murder case. Again, the misconduct described in this Count was alleged to have been undertaken intentionally, with malice, willfulness and reckless indifference to the rights of others.
5. Count IV alleges Respondent Superior Against Town of Normal, in that in committing the acts alleged in the Complaint, and in Counts I through III, each of the individual defendants were members of the Normal Police Department, acting at all relevant times within the scope of their employment. That due to that fact, the Town of Normal is liable as principal for all torts in violation of State law committed by its agents.
6. Lastly, Count V alleges 745 ILCS 10/9-102 Complaint against the Town of Normal, in that in committing the acts alleged in the Complaint, and in Counts I through III, each of the individual defendants were members of, and agents of, the Normal Police Department, acting at all times within the scope of their employment. That as such, the defendant Town of Normal is liable as principal for all torts in violation of State law committed by its agents.
7. Defendants have filed a Motion For Summary Judgment on all claims against them.
8. Summary Judgment shall be granted "if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue of material fact, and that the moving party is entitled to a judgment as a matter of law." 735 ILCS 5/2-1005(c).

#### **COUNT I- Malicious Prosecution**

1. The elements of a cause of malicious prosecution as alleged in plaintiff's Count I, require proof of: 1) commencement or continuation of a criminal proceeding by the defendant; 2) absence of probable cause for the proceeding; 3) malice; 4) termination of the proceeding in a manner indicative of the plaintiff's innocence; and 5) damages. All five of these elements must be present to defeat a motion for summary judgment.

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2. In this action, the individual defendants were police officers who investigated the case for, and at the direction of the McLean County Prosecutor's Office. (See depositions of former McLean County State's Attorney, Charles Reynard, (Ex. 17 p. 71, line 8 to p. 72, line 12), and former prosecutor, James Souk, Ex. 6, p.139, line 15, to p. 140, line 16)). These depositions by the prosecutors handling the case show that it was they, and not the defendant police officers, who had the decision-making capacity as to whom would be charged with the murder of Jennifer Lockmiller. The Court has also considered the deposition testimony of non-party, Officer Tony Davis, who sat in on the meeting of investigating officers and lead prosecutors in May of 1994, at the time the decision was made to charge the plaintiff with the murder of Lockmiller. At that meeting, Daniels stated he attempted to discuss notes he had taken during an "Unresolved Homicide Class" conference he had recently attended in Florida, which he felt may have been important to now plaintiff Beaman's criminal case, but was interrupted by Prosecutor, Souk, who stated that the investigation had gone on far enough, and that a warrant would be issued for plaintiff's arrest, (Ex.5, p.11, lines 13 to p. 12, line 4, then Ex. 5, p. 472, line 21, to p. 473, line 14, then Ex. 5, p.338, line 9, to p. 341, line 22.) This corroborates the defendants' claim in this case that the officers had no ability to initiate a criminal prosecution against plaintiff. The record presented to the Court shows that The McLain County State's Attorney's Office alone made the decision to prosecute plaintiff for the murder of Jennifer Lockmiller after considering all evidence, including evidence concerning other potential suspects in the case. The Court also finds that defendants' did not exert any unusual influence on the prosecutors which caused a malicious prosecution to take place against plaintiff.
3. **The Court finds that probable cause existed for the arrest and prosecution of plaintiff for the murder of Jennifer Lockmiller.**
4. Probable Cause is defined as "a state of facts that would lead a person of ordinary caution and prudence to believe, or to entertain an honest and strong suspicion, that the person arrested committed the offense charged." Reynolds v. Menard, Inc, 365 Ill. App.3d 812, 820, 850 N.E.2d 831, 838 (1st Dist., 2006); Sang Ken Kim v. City of Chicago, 368 Ill. App.3d 648, 654, 858 N.E.2d 569, 575 (1st Dist., 2006). The existence of probable Cause depends on the "totality of the circumstances" at the time of the arrest. Gauger v. Hendle, 2011 Ill. App.2d 100316 para 112. And, as cited by defendants', probable cause can be based upon the "collective knowledge of the officers involved in the investigation. People v. Long, 369 Ill. App. 3d 860, 867, 861 N.E. 2d 335 (2d Dist., 2007). In this case, grounds for probable cause to charge plaintiff with murder existed as specifically stated in paragraphs (a) through (p) of Defendants'

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Memorandum of Law In Support Of Defendants' Motion For Summary Judgment, filed in this cause, recounting the facts in defendant, Freesmeyer's deposition. Defendants' Statement of Facts (SOF), Para 98.

5. Assistant State's Attorney, James Souk, one of the two lead prosecutors in the case, also determined that probable existed for the arrest of plaintiff as stated in (SOF, para's 99 -108), which was concurred with by the State's Attorney. The Court also notes that beyond the issue as to reasonable doubt, the above evidence presented at plaintiff's jury trial, was sufficient to prove his guilt beyond a reasonable doubt.
6. Based upon the above, the Court finds that probable cause was properly established in this case, and that no jury could reasonably decide otherwise.
- 7. The Court finds no malice on the part of the defendants in the initiation or continuation of the prosecution of the case.**
8. Absence of malice can be decided on summary judgment where the record is devoid of any affirmative evidence of malice, an element on which the plaintiff bears the ultimate burden of proof. Turner v City of Chicago, 91 Ill.App. 3d 931, 937, 415 N.E. 2d 481 (1st Dist. 1980). Malice has been defined as "the initiation of a prosecution for any reason other than to bring a party to justice". Sczcesniak v. CJC Auto Parts, Inc, 2014 Ill.App.2d 130636\*19. Here, the evidence has shown that more than probable cause existed for the prosecution to bring plaintiff to trial. Further, that in the minds of the prosecutors, there was sufficient reason to exclude other potential suspects in the case, either due to alibi evidence or lack of evidence, to proceed solely against the plaintiff. At jury trial, the State provided the jury with proof beyond a reasonable doubt that plaintiff had both motive and opportunity to commit the murder. Evidence also showed a history of violence and threats between plaintiff and Lockmiller causing Lockmiller to fear for her safety. Therefore, the Court cannot find that sufficient facts exist to show that the defendants' involvement in this case were motivated by any other reason than to bring a party to justice. The evidence further shows that the defendants acted upon the advice and orders of the State's Attorney and his Assistant, which would vitiate any claim of malice. See Salmen v. Kamberos, 206 IllApp 3d 686, 692, 565 N.E. 2d 686 (1st Dist. 1990).
- 9. The Court finds that plaintiff cannot prove the termination of his prosecution was indicative of his innocence.**

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10. In this matter, the plaintiff's conviction was reversed by the Illinois Supreme Court, and the case remanded for trial. The Court specifically held that no part of its decision would suggest insufficient evidence or preclude a retrial. People v Beaman, 229 Ill.2d 56, 82, 890 N.E.2d 500 (2008). On remand, it was the McLean County State's Attorney who decided not to re-prosecute the plaintiff. As noted by the defense, there was nothing in the State's Attorney's decision to suggest the plaintiff's innocence, but rather a matter of impracticality of reconstructing the evidence and relocating witnesses after so many years had passed. (SOF Para 124). There is no evidence that defendants continued to press for re-trial of the case following the State's decision.

The Court therefore enters summary judgment in favor defendants and against plaintiff on malicious prosecution claim in Count I.

#### **COUNT II - Intentional Infliction of Emotional Distress**

1. Plaintiff's claim of intentional infliction of emotional distress ("IIED") is again based upon his claim of malicious prosecution, and is dependent upon that claim. Jiminez v City of Chicago, 830 F. Supp.2d 432, 451 (N.D.ILL. 2011). Further, that plaintiff's IIED claim is contingent or "intertwined" with the malicious prosecution claim. Walden v. City of Chicago, 755 F.Supp.2d 942, 962 (N.D.ILL. 2010). To prove a claim for IIED under Illinois law, plaintiff must establish that: (1) the defendants' conduct was extreme and outrageous; (2) the defendants' either intended that their conduct should inflict severe emotional distress; and (3) the defendants' conduct in fact caused severe emotional distress. Extreme and outrageous conduct is that which goes "beyond all bounds of decency and is considered intolerable in a civilized society." The Court finds that paras. (1) and (2) have not been shown to be the case. As to para (3), severe and emotional distress would seem to accompany convictions for the offense of murder.
2. Based upon the above, the Court enters summary judgment in favor of the defendants' and against the plaintiff as to Count II of the Complaint.

#### **COUNT III - Civil Conspiracy**

1. In order to prevail on this allegation, plaintiff would need to show that the defendants conspired with themselves and with the prosecution to maliciously prosecute him. As defendants point out, there is nothing conspiratorial or

C12499

unusual about the fact that police officers worked together and with prosecutors to prepare a case for prosecution. The Court believes this would include an officer moving into the State's attorney's Office to work full time on a case of this magnitude. The plaintiff has failed to show an agreement by defendants to accomplish either an unlawful purpose, or a lawful purpose by any unlawful means to prove a civil conspiracy. Mosley v City of Chicago, 614 F. 3d 391 (7th Cir. 2010).

Therefore, the Court enters summary judgment in favor of defendants and against plaintiff on plaintiff's Count III State Law Conspiracy Claim.

COUNTS IV and V

1. These Counts contain plaintiff's derivative claims against the City of Normal based upon substantive claims against the individual defendants' in Counts I through III. In light of the Court's findings in Counts I through III, summary judgment is entered in favor of defendants' and against plaintiff in Counts IV and V.

Judgment is entered on the findings herein.

Dated : 6/22/14

Enter : Richard L. Brod  
Circuit Judge

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APPENDIX 000033

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL  
MCLEAN COUNTY, ILLINOIS

ALAN BEAMAN,

Beaman,

v.

TIM FREESMEYER, Former Normal Police  
Detective; DAVE WARNER, Formal Normal  
Police Detective; FRANK ZAYAS, Former  
Normal Police Lieutenant; and TOWN OF  
NORMAL, ILLINOIS,

Defendants.

No. 14 L 51

FILED  
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**DEFENDANTS' STATEMENT OF MATERIAL FACTS IN SUPPORT OF  
MOTION FOR SUMMARY JUDGMENT**

Defendants, by their counsel, Ancel, Glink, Diamond, Bush, DiCianni and Krafthefer, P.C., submit the following as their Statement of Material Facts in support of their Motion for Summary Judgment:

Filed in Support of this Motion for Summary Judgment are the following:

1. Timothy Freesmeyer's Deposition Transcript (Exhibit 1);
2. Robert Hospelhorn's Deposition Transcript (Exhibit 2);
3. David Warner's Deposition Transcript (Exhibit 3);
4. Frank Zayas' Deposition Transcript (Exhibit 4);
5. Tony Daniels' Deposition Transcripts (Exhibit 5);
6. James Souk's Deposition Transcript (Exhibit 6);
7. Morgan Keefe's Interview Transcript (Exhibit 7);
8. Timothy Freesmeyer's Report (Exhibit 8);
9. Robert Hospelhorn's Report (Exhibit 9);

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10. John Murray September 2, 1993 Interview Transcript (Exhibit 10);
11. John Murray September 8, 1993 Interview Transcript (Exhibit 11);
12. Debra Mackoway's Interview Transcripts (Exhibit 12);
13. Post-Conviction Hearing Transcript (Exhibit 13);
14. Grand Jury Transcript (Exhibit 14);
15. State's Attorney's Case File (Exhibit 15);
16. Jennifer Lockmiller's Telephone Records (Exhibit 16);
17. Charles Reynard Deposition Transcript (Exhibit 17);
18. Dean Kennedy Trial Testimony (Exhibit 18);
19. Freesmeyer Trial Testimony (Exhibit 19);
20. Freesmeyer Grand Jury Testimony (Exhibit 20);
21. Morgan Keefe (Hartman) Deposition Transcript (Exhibit 21);
22. Debra Mackoway (Bluestein) Deposition Transcript (Exhibit 22);
23. Todd Heyse Deposition Transcript (Exhibit 23);
24. Swaine Statements (Exhibit 24);
25. Crime Scene Report (Exhibit 25);
26. 911 Transcript (Exhibit 26);
27. Heidi Steinman Statement (Exhibit 27);
28. Katy Corbett Statement (Exhibit 28);
29. Amy Endicott Statement (Exhibit 29);
30. Stipulation – phone records (Exhibit 30);
31. Overhear Transcription – 2/16/94 (Exhibit 31);
32. Mike Mackey Statement (Exhibit 32);
33. Jennifer Seig Statement (Exhibit 33);
34. Meredith Haynes Statement (Exhibit 34);

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35. Plaintiff's Statement – 8/28/93 (Exhibit 35);
36. Coroner's Report (Exhibit 36);
37. McCann Deposition Transcript (Exhibit 37);
38. Todd Barth Statement (Exhibit 38).

### PARTIES/PARTICIPANTS

1. On April 1, 1995, Plaintiff, Alan Beaman was found guilty by a jury of the murder of Jennifer Lockmiller. Beaman was sentenced to 50 years in the Illinois Department of Corrections. Beaman spent 13 years in prison, and was released in 2008 based on the Illinois Supreme Court's decision in *People v. Beaman*, 229 Ill.2d 56 (2008). (Compl. ¶91). The Court held the State violated Beaman's right to due process under *Brady v. Maryland*, 373 U.S. 83 (1963) by failing to disclose material information about a viable alternative suspect -- John Murray. *Beaman*, 229 Ill.2d 56. The undisclosed evidence consisted of four points: (1) Murray failed to complete a polygraph examination; (2) Murray was charged with domestic battery and possession of marijuana with intent to deliver prior to Beaman's trial; (3) Murray had physically abused his girlfriend on numerous prior occasions; and (4) Murray's use of steroids caused him to act erratically. *Id.* at 75.

2. Defendant Timothy Freesmeyer was a police officer for the Town of Normal Police Department ("NPD"), from March 12, 1990 until August, 2000. (Ex. 1, Freesmeyer, pp. 16, 21). Freesmeyer worked as a detective in the NPD's Criminal Investigations Division (CID) from 1991 to 1995. (Ex. 1, Freesmeyer, pp. 17, 19).

3. Defendant Dave Warner started as a police officer in the NPD in 1983. He worked as a detective for seven years, as an evidence technician, arson investigator, as a patrol

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and administrative sergeant, an administrator lieutenant, and currently serves as the NPD's day shift lieutenant. (Ex. 3, Warner, pp. 30-32).

4. Defendant Frank Zayas started his employment with the NPD in 1968. (Ex. 4, Zayas p. 16). He was the lieutenant in charge of CID at the time of the Lockmiller murder and throughout the murder investigation until his retirement in November, 1994, except he was assigned out of CID from February until June, 1994, when he resumed his position in CID. (Ex. 4, Zayas, pp. 20, 23; Ex. 5, Daniels, p. 683).

5. Rob Hospelhorn was a detective in CID part of the time of the Lockmiller murder investigation. He has worked for the NPD from 1988 to the present. (Ex. 9, Hospelhorn, p.17).

6. Tony Daniels was a detective in CID at the time of the Lockmiller murder investigation. He was assigned as the temporary head of CID on Zayas' departure, from March 7, 1994, until Zayas' return in June of 1994. (Ex. 5, Daniels, pp. 683-84). He later served as the head of CID. (Ex. 5, Daniels, p. 392).

7. James Souk was the Chief of the Felony Division in the McLean County State's Attorney's Office at the time of the Lockmiller murder. In January, 1997, Souk left that position to become an Associate Judge in McLean County, and was later elected Circuit Court Judge. Souk was the lead prosecutor for Beaman's prosecution for Lockmiller's murder. (Ex. 6, Souk, pp. 28, 51).

8. Charles Reynard was the elected State's Attorney for McLean County at the time of the Lockmiller murder and Beaman's prosecution. He is currently a Circuit Court Judge in McLean County. (Ex. 18, Reynard, pp. 16, 30).

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**THE MURDER**

9. On August 28, 1993, Jennifer Lockmiller's decomposed body was found in her apartment at 412 N. Main Street, Normal, Illinois. Lockmiller was a student at Illinois State University (ISU) at the time. Lockmiller had been strangled with an electrical cord from an alarm clock in her bedroom and had been stabbed in the chest with a pair of scissors. (Compl. ¶91). Zayas, who went to the crime scene with Warner, described it as "gruesome." (Ex. 4, Zayas, p. 89).

10. Lockmiller's body was found by her girlfriend, Morgan Keefe (Hartman), who after attempting to contact Lockmiller for several days, went to her apartment, found the body and called the police. Keefe identified Alan Beaman as the killer -- Lockmiller's ex-boyfriend who Lockmiller was afraid of because of his behavior. According to Keefe, Beaman broke down Lockmiller's door several times and threatened suicide if she broke up with him. (Ex. 3, Warner, p. 52-53, 159; Ex. 7, Keefe Stmt.; Ex. 21, Keefe (Hartman), p. 27).

11. The crime scene was a two-story frame apartment building containing four apartments. (Ex. 18, Kennedy Trial Tr., pp. 213-216; Ex. 25, NPD Crime Scene Rpt., p. 73). Lockmiller's body was found in apartment No. 4, which was on the west end of the second floor. (Ex. 18, Kennedy Trial Tr., p. 216; Ex. 25, NPD Crime Scene Rpt., p. 74; Ex. 8, Freesmeyer Rpt., p. 1).

12. When the police arrived at the scene, the main entrance to the 412 N. Main apartment building was unlocked. (Ex. 18, Kennedy Trial Tr., pp. 211-212; Ex. 25, NPD Crime Scene Rpt., p. 73; Ex. 7, Keefe Stmt., p. 15; Ex. 20, Freesmeyer GJ Tr., p. 135). The door to Lockmiller's apartment had a deadbolt and chain. (Ex. 25, NPD Crime Scene Rpt., p. 74; Ex. 18, Kennedy Trial Tr., pp. 211-212). NPD detectives learned Lockmiller always locked her door. (Ex. 1, Freesmeyer Dep., pp. 212-213).

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13. The door to Lockmiller's apartment contained signs of damage which included a crack in the door frame and marks on the inside of the door frame that appeared to be from the deadbolt lock being left in the lock position when the door was closed. (Ex. 18, Kennedy Trial Tr., pp. 219-220; Ex. 25, NPD Crime Scene Rpt., p. 74). NPD detectives learned the door damage was present prior to the date of Lockmiller's murder. (Ex. 18, Kennedy Trial Tr., pp. 211-220; Ex. 20, Freesmeyer GJ Tr., pp. 134-35). There were no visible signs of recent forced entry to Lockmiller's apartment. (Ex. 18, Kennedy Trial Tr., pp. 211-212; Ex. 25, NPD Crime Scene Rpt., p. 74; Ex.1, Freesmeyer, pp. 211-213, 264; Ex. 20, Freesmeyer GJ Tr., pp. 134-35).

14. A gold-colored, hoop-type earring was found lying on the floor approximately three feet inside the doorway. (Ex. 18, Kennedy Trial Tr., pp. 211-221, 239-240; Ex. 25, NPD Crime Scene Rpt., p. 74). A red shoe was lying in the hallway outside the bedroom door and a gold colored earring similar to the earring by the entrance door was found on the bathroom floor. (Ex. 18, Kennedy Trial Tr., pp. 211-223, 239-240; Ex. 25, NPD Crime Scene Rpt., p. 74).

15. Dirty dishes were in the sink, the left cabinet door under the kitchen sink was open and a plastic garbage can was lying on its side in front of the open cabinet. (Ex. 18, Kennedy Trial Tr., pp. 211-223, 240-241; Ex. 25, NPD Crime Scene Rpt., p. 74; Ex. 20, Freesmeyer GJ Tr., p. 135). A bag of garbage was found on the living room sofa filled with trash, with its contents spilling out. (Ex. 18, Kennedy Trial Tr., pp. 211-223, 240-241; Ex. 25, NPD Crime Scene Rpt., p. 74; Ex. 20, Freesmeyer GJ Tr., pp. 135-36).

16. Two book bags and Lockmiller's purse were found on a table; all three were closed and did not appear to have been disturbed. (Ex. 19, Kennedy Trial Tr., pp. 234-236;

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Ex. 20, Freesmeyer GJ Tr., p. 137; Ex. 25, NPD Crime Scene Rpt., p. 74). Lockmiller's purse contained her driver's license and other identification, a brown wallet with \$17.71 in cash, various credit cards and other personal effects. (Ex. 18, Kennedy Trial Tr., pp. 234-236; Ex. 20, Freesmeyer GJ Tr., p. 137; Ex. 25, NPD Crime Scene Rpt., p. 74). Officers did not detect any signs that there had been a burglary because items of value were not disturbed on the premises. (Ex. 5, Daniels; pp. 90-91; Ex. 18, Kennedy Trial Tr., pp. 234-236; Ex. 20, Freesmeyer GJ Tr., p. 137). The television was on and the air conditioning unit was running, and both were located in the living room. (Ex. 18, Kennedy Trial Tr., pp. 215-216; Ex. 25, NPD Crime Scene Rpt., p. 74; Ex. 20, Freesmeyer GJ Tr., pp. 137-38).

17. NPD detectives learned that Lockmiller's grey Pontiac Sunbird had been parked outside the front door to the building for several days. (Ex. 20, Freesmeyer GJ Tr., p. 138; Ex. 8, Freesmeyer Rpt., p. 189; Ex. 18, Kennedy Trial Tr., pp. 237-238; Ex. 19, Freesmeyer Trial Tr., pp. 798-799).

18. The door to Lockmiller's bedroom was found open. (Ex. 18, Kennedy Trial Tr., pp. 211-218; Ex. 25, NPD Crime Scene Rpt., p. 75). A hole, approximately ten inches in diameter, was found on the south wall of the bedroom. (Ex. 18, Kennedy Trial Tr., pp. 211-218; Ex. 25, NPD Crime Scene Rpt., p. 75). NPD detectives learned that the hole in the bedroom was made by Alan Beaman prior to Lockmiller's murder. (Ex. 24, Swaine 8/28/93 Stmt., p. 6; Ex. 24, Swaine 8/29/93 Stmt., p. 45).

19. The bedroom contained a single bed and a set of bunk beds; Lockmiller's body was found on the floor in-between the beds. (Ex. 18, Kennedy Trial Tr., pp. 211-218, 223-224; Ex. 25, NPD Crime Scene Rpt., p. 75). Lockmiller's body was found in a supine position, with her arms extended straight out from the shoulders, her legs spread apart and

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bent at the knees, and her feet extended back toward her head. (Ex. 18, Kennedy Trial Tr., pp. 211-218; Ex. 25, NPD Crime Scene Rpt., p. 75; Ex. 20, Freesmeyer GJ Tr., pp. 130-31). Lockmiller's shirt and bra were pushed up, exposing her chest; and her shorts, belt, and underwear were pulled down around her left calf and ankle but there was no physical evidence of rape. (Ex. 18, Kennedy Trial Tr., pp. 211-218; Ex. 25, NPD Crime Scene Rpt., p. 75; Ex. 20, Freesmeyer GJ Tr., p. 130, 156-58). A red shoe, similar to the shoe found in the hallway outside the bedroom door, was on Lockmiller's left foot. (Ex. 18, Kennedy Trial Tr., pp. 211-218, 239-240).

20. A pair of scissors with red plastic handles was embedded in the center of Lockmiller's chest. (Ex. 18, Kennedy Trial Tr., pp. 211-218; Ex. 25, NPD Crime Scene Rpt., p. 75). The autopsy revealed the scissors found in Lockmiller's chest could have been put there post-mortem or when her heart was barely beating. (Ex. 20, Freesmeyer GJ Tr., pp. 132, 139-40). Multiple other stab wounds were noted in the skin on Lockmiller's chest, which had apparently been made with the scissors. (NPD Rpt., p. 75).

21. A clock radio was on the floor east of Lockmiller's head, and the cord from the clock radio was wrapped around Lockmiller's neck and tied in the front of her neck. (Ex. 18, Kennedy Trial Tr., pp. 211-218, 225-227, 243-244; Ex. 25, NPD Crime Scene Rpt., p. 75; Ex. 20, Freesmeyer GJ Tr., p. 129).

22. A box fan was resting on the scissors in Lockmiller's chest, covering her face. (Ex. 18, Kennedy Trial Tr., pp. 211-218; Ex. 25, NPD Crime Scene Rpt., p. 75; Ex. 20, Freesmeyer GJ Tr., p. 129).

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23. Several letters were located under Lockmiller's bed and placed into evidence. (Ex. 19, Freesmeyer Trial Tr., p. 804; Ex. 25, NPD Crime Scene Rpt., p. 75; Ex. 8, Freesmeyer Rpt., p. 7-11).

24. Although the apartment was processed for latent finger and palm print impressions, no identifiable latent prints were developed. (Ex. 18, Kennedy Trial Tr., pp. 246-250; Ex. 25, NPD Crime Scene Rpt., p. 75). Two of Alan Beaman's fingerprints were later identified on the clock used to strangle Lockmiller by the Morton Crime Laboratory. (Ex. 18, Kennedy Trial Tr., p. 236; Ex. 25, NPD Crime Scene Rpt., pp. 94-96; Ex. 20, Freesmeyer GJ Tr., pp. 162-63). One of Beaman's fingerprints was identified on the back of the Lockmiller clock near the cord and another on the bottom of the clock. (Ex. 20, Freesmeyer GJ Tr., pp. 275-277).

25. The cause of death was determined to be ligature strangulation. (Ex. 25, NPD Crime Scene Rpt., pp.104-110.) The post-mortem examination of Lockmiller found no defensive wounds on her body. (Ex. 20, Freesmeyer GJ Tr., p. 140).

26. NPD detectives believed the murder was a crime of passion, involving an act of vengeance. (Ex. 5, Daniels, pp. 90-92; Ex. 1, Freesmeyer, p. 205). NPD detectives concluded that Lockmiller knew her killer. (Ex. 3, Warner, pp. 59-60; Ex. 1, Freesmeyer, pp. 197, 203-205, 211-212).

#### **THE MURDER INVESTIGATION**

27. On the day Lockmiller's body was discovered, a meeting was held in the NPD with NPD Police Chief James Taylor, several CID detectives, Souk, and McLean County Coroner Dan Brady to discuss the case. (Ex. 1, Freesmeyer, p. 72). The group discovered

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that Beaman was in Rockford where he lived, and Tony Daniels and Hospelhorn were assigned to go to Rockford to interview Beaman that night. (Ex. 2, Hospelhorn, pp. 44-45).

28. Daniels and Hospelhorn were able to conduct a short interview of Beaman in Rockford on the night of August 28, 1993, which Beaman terminated abruptly. (Ex. 5, Daniels, p. 115, 124-25, 30). Daniels and Hospelhorn came away from the Beaman interview believing Beaman's conduct was highly suspicious. They were particularly interested that while Beaman was questioned about his relationship with Lockmiller, he never asked if something had happened to her. (Ex. 5, Daniels, p. 129). Daniels and Hospelhorn returned to Rockford the following day to attempt to talk to Beaman again, but were told Beaman was represented by counsel and would not talk to the detectives. (Ex. 5, Daniels, p. 143-44).

29. Throughout the first six weeks after the murder, every detective in CID worked on the investigation. Dozens of friends, neighbors, boyfriends, relatives and acquaintances were interviewed. (Ex. 3, Warner, pp. 66-68). Zayas, as the head of CID, assigned various parts of the investigation to the detectives. (Ex. 4, Zayas, p. 69). Each detective then worked on various facets of the cases. (Ex. 1, Freesmeyer, p. 37).

30. The detectives in CID had periodic meetings to discuss the investigation. (Ex. 1, Freesmeyer, pp. 36-37). At times Souk or other attorneys from the State's Attorney's Office attended as well. (Ex. 6, Souk, p. 224).

31. Early in the investigation Freesmeyer focused on investigating Mike Swaine, who appeared at Lockmiller's apartment while Freesmeyer was at the crime scene. (Ex. 1, Freesmeyer p. 73). Swaine was Beaman's roommate, and had begun dating Lockmiller. After Swaine's alibi checked out and he passed a polygraph, Freesmeyer worked with Swaine to

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obtain recorded conversations with Beaman. (Ex. 1, Freesmeyer, pp. 220, 192-93; Ex. 8, Freesmeyer Report, pp. 19, 24).

**Morgan Keefe**

32. Morgan Keefe (Hartman) was Lockmiller's best friend. (Ex. 21, Keefe (Hartman), p. 26; Ex. 20, Freesmeyer GJ Tr., pp. 127, 142). Immediately after discovering Lockmiller's body, Keefe called 911 and told the dispatcher that "I know who did it .... [Lockmiller] had this psycho ex-boyfriend that she broke up with. His name's Alan, he went to Wesleyan and I only met him once and he was psycho and he used to harass her all the time and he used to break down her door." (Ex. 7, Keefe Stmt.; Ex. 21, Keefe (Hartman), p. 27; Ex. 21; Ex. 26, 911 Transcript).

33. On August 28, 1993, shortly after Keefe discovered Lockmiller's body, Detective Warner interviewed Keefe at NPD. (Ex. 7, Keefe Stmt.). Keefe provided the following information to Detective Warner:

- (a) She and Lockmiller went to a movie on Tuesday night before Lockmiller was found; they left the theater around midnight and that was the last time Keefe saw or spoke with Lockmiller. (Ex. 7, Keefe Stmt., p. 1-2.)
- (b) Lockmiller was dating Alan Beaman. (Ex. 7, Keefe Stmt., p. 3.)
- (c) Lockmiller didn't like Beaman very much and when Lockmiller tried to stay away from Beaman, he would threaten suicide. (Ex. 7, Keefe Stmt., p. 3; Ex. 21, Keefe (Hartman), pp. 18-19).
- (d) Beaman broke down the door to Lockmiller's apartment a couple of times and Lockmiller's landlord fixed the lock. (Ex. 7, Keefe Stmt., p. 3).
- (e) One night Keefe arrived at Lockmiller's apartment and there was a chair and a big beam against the front door. When she opened the door, Lockmiller started screaming and Keefe told her, "Jen, it's me. It's ok," and Lockmiller said, "Oh, well, Alan [Beaman] broke down the door awhile ago." (Ex. 7, Keefe Stmt., p. 3; Ex. 21, Keefe (Hartman), pps. 25-26). Keefe described Lockmiller as scared of Beaman. (Ex. 21, Keefe (Hartman), p. 26).

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- (f) Lockmiller told Keefe that she was looking forward to Beaman going home over the summer, so that she could finally spend time with Swaine. (Ex. 7, Keefe Stmt., p. 4.)
- (g) Beaman moved home on August 4, 1993 and Swaine moved into Lockmiller's apartment with her around August 15 because he didn't have a place to live. (Ex. 7, Keefe Stmt., pp. 4-5.)
- (h) Lockmiller told Keefe on August 24 that she recently had sex with Swaine. (Ex. 7, Keefe Stmt., p. 6.)
- (i) Keefe had been trying to contact Lockmiller since Wednesday around 3:30 p.m. (Ex. 7, Keefe Stmt., p. 12.)
- (j) Keefe found the door to Lockmiller's apartment unlocked when she arrived and discovered Lockmiller's body. (Ex. 7, Keefe Stmt., p. 15.)

34. Keefe knew Lockmiller was afraid of Beaman. Lockmiller told Keefe "over and over again" that she was afraid of Beaman. (Ex. 21, Keefe (Hartman), pp. 18, 30). Keefe knew Beaman was possessive, verbally aggressive, and that he would call Lockmiller's apartment repeatedly in a harassing manner. (Ex. 21, Keefe (Hartman), pp. 18-19, 25).

#### **Lockmiller's Neighbors**

35. Liza Everett and Lori Solomon, who lived directly below Lockmiller in apartment No. 2, told NPD detectives they overheard fights between Lockmiller and a man who drove a silver Ford Escort. (Ex. 8, Freesmeyer Rpt., p. 2). Beaman drove a silver/grey Ford Escort. (Ex. 19, Freesmeyer Trial Tr., p. 824).

36. David Singley, who lived directly across the hall from Lockmiller told NPD detectives that approximately a month before Lockmiller's murder he overheard an early morning argument between Lockmiller and Beaman, during which Beaman tried to break into Lockmiller's apartment three to four times by kicking it and throwing himself against her apartment door. (Ex. 8, Freesmeyer Rpt., p. 3). Singley also told NPD detectives that on that morning when Beaman could not gain access to Lockmiller's apartment, Beaman ran around

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the apartment parking lot yelling "slut," returning to her apartment a short time later to yell something like "I see your cherry stain on the bed" and "you slept with him but you wouldn't sleep with me;" and "the only reason you dated me was to go to bed with my friend." (Ex. 8, Freesmeyer Rpt., p. 3).

37. Susan Jenkins, who lived with David Singley, described this same incident to NPD, telling detectives that Beaman seemed so "absolutely crazed" that she was afraid to call the police because she thought that if she did Beaman would beat Lockmiller as a result. (Ex. 8, Freesmeyer Rpt., p. 3).

#### **Time of Death**

38. Dan Brady, the McLean County Coroner, opined that Lockmiller's body was in her apartment for 2-4 days before she was discovered. (Ex. 25, NPD Crime Scene Rpt., p. 120; Ex. 20, Freesmeyer GJ Tr., pp. 141-142, 157). The coroner estimated the time of death being between 9:00 a.m. on August 25, 1993 and 9:00 a.m. on August 27, 1993. (Ex. 36, Coroner's Rpt., pp. 332-333).

39. Claudine Moss told NPD detectives she spoke to Lockmiller at 8:00 a.m. on August 25, 1993 about a kitten Lockmiller was advertising for sale. (Ex. 20, Freesmeyer GJ Tr., pp. 145-47; Ex. 16, Lockmiller's Telephone Records). Moss told NPD detectives she and her husband went to Lockmiller's apartment to look at the cat around 4:20 p.m. on August 25, 1993, but Lockmiller did not answer her door. (Ex. 20, Freesmeyer GJ Tr., pp. 145-47).

40. NPD detectives obtained Lockmiller's class schedule for August 25, 1993 and learned that she had four classes/on that date: (a) 9:00-9:50 a.m.; (b) 10:00-10:50 a.m.; (c) 11:00-11:50; and (d) 2:00-2:50 p.m. (Ex. 20, Freesmeyer GJ Tr., pp. 144-45). NPD detectives learned that Lockmiller attended her first three classes, but did not attend her fourth class,

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which began at 2:00 p.m. (Ex. 8, Freesmeyer Rpt., p. 441; Ex. 20, Freesmeyer GJ Tr., pp. 144-45, 261). They learned that Lockmiller failed to attend a meeting at the Vidette Newspaper, where she worked, at 8:00 p.m. on August 25. (Ex. 20, Freesmeyer GJ Tr., pp. 144-45).

41. NPD detectives were unable to find any person who saw Lockmiller alive after her 11:00-11:50 a.m. class on August 25, 1993. (Ex. 20, Freesmeyer GJ Tr., p. 147).

#### **Alan Beaman's Alibi**

42. On October 12, 1993, Alan Beaman was interviewed by Detective Freesmeyer at the NPD. (Ex. 8, Freesmeyer Rpt., pp. 215-217). During the interview Beaman stated that on August 25, he arrived home from work between 9:00-10:00 a.m. and was there alone, sleeping until his parents woke him up at 3:30-4:00 p.m. when they got home. (Ex. 8, Freesmeyer Rpt., pp. 216-217, 221; Ex. 20, Freesmeyer GJ Tr., pp. 204-05, 228-229).

43. Beaman's supervisor, Dennis Clark, confirmed to NPD detectives that Beaman got off work on August 25 at 9:00 a.m. (Ex. 20, Freesmeyer GJ Tr., pp. 152-53).

44. On October 11, 1993, the day before Freesmeyer's interview of Beaman, NPD detectives learned that Beaman made a deposit at Bell Federal Savings and Loan Bank, located at 1466 S. Alpine Road, Rockford, at approximately 10:11 a.m. on August 25. (Ex. 8, Freesmeyer Rpt., p. 214; Ex. 20, Freesmeyer GJ Tr., pp. 154-56).

45. Based on the distance between Rockford and Bloomington, NPD detectives believed it was possible for Beaman to have left Bell Federal, traveled to Bloomington to commit the murder and return to Rockford by 3:00 p.m. (Ex. 20, Freesmeyer GJ Tr., pp. 233-239; Ex. 1, Freesmeyer Dep., pp. 213-289).

**Beaman's Relationship with Lockmiller**

46. The detectives discovered that Beaman and Lockmiller had broken off their stormy relationship about one month before her murder. During their two-year relationship, Beaman and Lockmiller broke up and reunited about 18 times. They had many loud arguments, witnessed by their friends and neighbors, one of which resulted in Beaman drinking a bottle of nail polish remover and the police being called. (Ex. 1, Freesmeyer, pp. 193, 209; Ex. 6, Souk, p. 446; Ex. 20, Freesmeyer GJ Tr., p. 249).

47. In the course of the investigation, Freesmeyer reviewed the undated letters recovered from under Lockmiller's bed. (Ex. 8, Freesmeyer Rpt., pp. 7-11). The letters were written to Lockmiller by Beaman and contained among others, the following statements (Ex. 19, Freesmeyer Trial Tr., pp. 804-805; Ex. 8, Freesmeyer Rpt., pp. 7-11):

- (a) I love you more passionately than Romeo did Juliet, more hopelessly than Ophelia did Hamlet, more vengefully than Medea, Jason. Don't worry, I won't kill anybody, I don't believe in that. I do unto others as I would have them unto me (from now on).
- (b) I really just want you to be with me and only me.
- (c) I'm sorry that I've been such an ass lately. It seems like every time I don't get my way I freak out and do something stupid. I know that it's a problem, and I'm really trying to mellow out about things like that, but it's hard for me because I always expect to get the run-around. Needless to say this whole Bubba thing has got me freaked out more than you could possibly imagine. With the most confusing and passionate love ever imaginable in anyone's wildest dreams.
- (d) I can't bear any longer to stare into your eyes to see the barrage of countless past lovers of your life. I cannot look at you, if I cannot touch you.

(Ex. 8, Freesmeyer Rpt., pp. 7-10).

48. In June, 1993, Beaman broke in the door of Lockmiller's apartment because she was hosting her friend and sometimes lover, Larbi John Murray ("Murray"). (Ex. 6, Souk, p. 386; Ex. 10, Murray September 2, 1993 Interview Transcript). Todd Barth,

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Lockmiller's friend, told NPD detectives that around 3 a.m. on July 5 or 6, 2015, Lockmiller called him because Beaman was trying to break in and they had to move a dresser in front of the door. (Ex. 37, Barth Stmt., pp. 1, 9-100).

49. On July 25, 1993, Beaman suspected that Lockmiller was seeing and possibly sleeping with Beaman's roommate, Michael Swaine, and again knocked down Lockmiller's apartment door. (Ex. 1, Freesmeyer, p. 257). Swaine asked Beaman around 2:00 a.m. that night to borrow his car to go to a party. Thinking Swaine was lying, Beaman followed Swaine on his bicycle to Lockmiller's apartment because he "wanted to watch them." (Ex. 36, Pl. Stmt., p. 19; Ex. 24, Swaine 8/28/93 Stmt., p. 10). Beaman banged on the door yelling, "I knew it! I know you are in there!" (Ex. 24, Swaine Stmt., pp. 16-18). Beaman kicked in the door and looked for Swaine, who was hiding in the closet. (Ex. 35, Beaman Stmt., p. 19; Ex. 24, Swaine 8/28/93 Stmt.; Ex. 24, Swaine 8/29/93 Stmt).

50. On another occasion, Beaman pushed his way into Lockmiller's apartment and rummaged through Lockmiller's trash looking for Swaine's used condoms as evidence. (Ex. 1, Freesmeyer, pp. 195, 201).

51. Hospelhorn interviewed Kris Perry, a friend of Lockmiller and Beaman. Perry told Hospelhorn that Lockmiller told Perry that Beaman once said he would kill Lockmiller then kill himself. (Ex. 2, Hospelhorn, p. 109). When Hospelhorn interviewed Perry again on another day, Perry changed his report to take out that Beaman said he would kill Lockmiller, and changed his statement to say that Beaman only said he would kill himself. (Ex. 2, Hospelhorn p. 110-11).

52. Friends and family told NPD that Lockmiller was afraid of Beaman and she intended to seek an order of protection. (Ex. 4, Zayas, pp. 190-95).

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53. Heidi Steinman, a close friend of Lockmiller's, told NPD detectives that Beaman treated Lockmiller like she was his property. (Ex. 27, Steinman Stmt., p. 10). Steinman told NPD detectives Lockmiller told her that Beaman had thrown a glass at Lockmiller and had also thrown and broken a lamp when he was angry at her. (Ex. 28, Steinman Stmt., pp. 2-3).

54. Michael Swaine explained to NPD detectives that Lockmiller thought Beaman was infatuated with her and Beaman thought Lockmiller was the only woman for him (Ex. 24, Swaine 8/28/93 Stmt., p. 9).

55. Mike Mackey, a friend of Beaman's, told NPD detectives Lockmiller would "fuck with his [Beaman's] head so much that he would just go crazy, I mean, he would be irrational and mood swings and she would just drive him nuts and he would, I mean, for months on end that's all he ever talked about was him and Jen [Lockmiller] and how she was pissing him off . . . it just made him suicidal I mean it was just nuts and she just drove him crazy." (Ex. 32, Mackey Stmt., p. MCC 1679).

56. NPD detectives learned that in the summer of 1993 Beaman was seeing a psychiatrist, wasn't eating or sleeping, and "was just a mess" and "a mental wreck" because of what he was "going through with Jen." (Ex. 24, Swaine 8/28/93 Stmt., pp. 9-14).

57. Jennifer Seig told NPD detectives she believed Beaman threatened to kill Lockmiller and Swaine if he ever caught them in bed together. (Ex. 33, Seig Stmt., p. 6).

58. Katy Corbett, Beaman's friend, told NPD detectives she and Lockmiller were talking about relationships and Lockmiller was ready to call it quits with Beaman, but she did not because Beaman "went through these times when he would be violent and you know he punched a huge hole in her wall at her apartment and just you know times that he would get

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really upset.” Corbett also said that Lockmiller told her she was going to wait until the end of the summer to break it off because Lockmiller didn’t want to make Beaman upset while he was still working here at the theater. (Ex. 28, Corbett Stmt., p. 7). Corbett stated that Swaine was “definitely not” a violent individual, but “if Alan [Beaman] were (sic) in the right frame of mine (sic), he could be violent.” (Ex. 28, Corbett Stmt., p. 5). Corbett said every time she saw Beaman “in these violent rages he would usually take it out on something else, like there is holes in the apartment walls everywhere at our complex . . . he would bash things . . .” (Ex. 28, Corbett Stmt., p. 8).

59. Swaine also told NPD detectives Beaman got violent and punched a large hole in Lockmiller’s bedroom wall. (Ex. 24, Swaine 8/28/93 Stmt., pp. 6-7; Ex. 24, Swaine 8/29/93 Stmt., p. 71).

60. Michael Bowen, Lockmiller’s friend, told NPD detectives Lockmiller told him Beaman “pushed her before.” (Ex. 9, Hospelhorn Rpt., p. 8).

61. Meredith Haynes, a friend of Lockmiller’s who had been romantically interested in Beaman in the past, stated that Lockmiller told her Beaman broke into her (Lockmiller’s) apartment or broke down the door several times, pushed her around and knocked things over. (Ex. 34, Haynes Stmt., pp. 1-2, 6-7).

#### **Swaine’s Relationship with Lockmiller**

62. During the summer of 1993, Michael Swaine and Beaman were roommates and working together at the Illinois Wesleyan theater. (Ex. 20, Freesmeyer GJ Tr., pp. 249-50). Swaine began a sexual relationship with Lockmiller in June 1993. (Ex. 20, Freesmeyer GJ Tr., pp. 249-50; Ex. 24, Swaine 8/29/93 Stmt., p. 304, 221). Swaine and Lockmiller had sex for the first time on June 11, 1993, when Beaman was driving to/from Rockford to get

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marijuana for Lockmiller. (Ex. 20, Freesmeyer GJ Tr., p. 250; Ex. 24, Swaine 8/29/93 Stmt., pp. 405, 22).

63. Swaine told NPD Beaman gets “real jealous” and “would make everything real dramatic” when he thought that “something is going on” between Lockmiller and another man. Consequently, Swaine and Lockmiller attempted to hide their relationship from Beaman for a time. (Ex. 24, Swaine 8/29/93 Stmt., pp. 3-11; Ex. 24, Swaine 8/28/93 Stmt., pp. 5-6). The Monday after Swaine slept with Lockmiller for the first time, he told Beaman that he had just “kissed her” causing Beaman to get “mad at her and not me [Swaine].” (Ex. 24, Swaine 8/29/93 Stmt., pp. 4-7.)

#### **Beaman’s Discovery of Lockmiller’s Letters to Swaine**

64. On July 25, 1993, Beaman searched Swaine’s bedroom while Swaine was at work because Beaman “had to have evidence” of Lockmiller and Swaine’s relationship. (Ex. 20, Freesmeyer GJ Tr., p. 250; Ex. 24, Swaine 8/29/93 Stmt., p. 26; Ex. 33, Seig Stmt., p. 5-6). During his search of Swaine’s bedroom, Beaman found two letters from Lockmiller to Swaine, which Beaman felt confirmed his suspicions that more had happened between them than Swaine told Beaman. (Ex. 24, Swaine 8/29/93 Stmt., pp. 7-8, 26; Ex. 20, Freesmeyer GJ Tr., pp. 251-53). Beaman also found an opened box of condoms in his and Swaine’s apartment and believed some condoms were missing from the box. (Ex. 29, Endicott Stmt., pp. 5-6). Beaman thought the missing condoms meant Swaine was having sex with Lockmiller. (Ex. 29, Endicott Stmt., pp. 5-6).

65. Beaman took the letters he found in Swaine’s bedroom to the theater where he and Swaine worked together, and angrily confronted Swaine about his relationship with

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Lockmiller, accusing Swaine of “fucking my girlfriend.” (Ex. 24, Swaine 8/29/93 Stmt., p. 26; Ex. 28, Ex. 28, Corbett Stmt., pp. 3-4).

66. Immediately thereafter, Beaman went to Lockmiller’s apartment to confront her. (Ex. 27, Steinman Stmt., pp. 2-3). Lockmiller’s apartment door was locked, so Beaman pounded on Lockmiller’s door until he was let in. (Ex. 27, Steinman Stmt., pp. 2-3).

67. Steinman, who was with Lockmiller in her apartment at that time, told NPD detectives that Beaman said, “Don’t do this to me Jen. I’m going to kill myself” and kept threatening suicide until he was let into Lockmiller’s apartment. (Ex. 27, Steinman Stmt., pp. 23). Once inside, Beaman angrily confronted Lockmiller with the letters he believed was evidence of her relationship with Swaine. (Ex. 27, Steinman Stmt., p. 2-3). He went through Lockmiller’s bathroom garbage, found a tampon applicator, and said, “See this is prophylactic. I know it, I know it. You had sex with him.” (Ex. 27, Steinman Stmt., p. 3).

#### **Beaman Leaves for Ohio**

68. Beaman left Bloomington on July 25 after confronting Swaine and Lockmiller and went to Ohio, where he stayed with a friend, until August 4. (Ex. 24, Swaine, pp. 26).

69. Before leaving Bloomington, Beaman left his theater professor, Dr. Brown, a note stating, “I know this is unprofessional and childish, but this has been chewing at me since early July. I’m too damn tired of this to be professional. If that makes me a nobody or means that I’m through at IWU, okay. But the things that I’ve found out and witnessed about my aforementioned roommate and my ex-fiancé have crushed any spirit. I had to get out of the slump, and it’s really just time for me to leave. I’m just afraid I’d cause even more hell to break loose.” (Ex. 20, Freesmeyer GJ Tr., pp. 250-52). Beaman attached the two letters he

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found in Swaine's room to the note he left for Dr. Brown. (Ex. 20, Freesmeyer GJ Tr., pp. 251-53).

70. While he was in Ohio, Beaman called Lockmiller eight times. (Ex. 30, Stipulation-Phone records, McLean 1306-1307; Ex. 16).

#### **Beaman Returns to Illinois**

71. On August 4, Beaman returned to Bloomington to retrieve his car. (Ex. 24, Swaine 8/29/93 Stmt., pp. 13, 69). Upon arriving in Bloomington, Beaman went to the apartment he shared with Swaine and saw Swaine driving in Lockmiller's car. (Ex. 24, Swaine 8/29/93 Stmt., pp. 13, 69).

72. That same day, Beaman went to Lockmiller's apartment for about 30-45 minutes "to talk to her because we had broken up." (Pl. Stmt., p. 13). Beaman then drove Lockmiller to class, and when he dropped her off, she kissed him goodbye and he told her, "that might be the last time we ever kissed" because he did not think he could ever trust her again. (Ex. 35, Pl. Stmt., p. 14).

73. Beaman told NPD detectives that August 4, 1993 was the last time he saw Lockmiller and that he had "no idea" if she was dating anyone "and didn't want to know." (Ex. 35, Pl. Stmt., pp. 9, 13; Ex. 20, Freesmeyer GJ Tr., p. 179).

74. Beaman returned to Rockford on August 4, 1993. (Ex. 35, Pl. Stmt., pp. 2-3, 1013).

#### **Swaine Moves in with Lockmiller**

75. Swaine moved out of the apartment he shared with Beaman and began living with Lockmiller in her apartment around August 14 or 15, 1993. (Ex. 24, Swaine 8/28/93 Stmt., pp. 23; Ex. 24, Swaine 8/29/93 Stmt., pp. 2-3; Ex. 8, Freesmeyer Rpt., pp. 12). At the

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time of the murder, Swaine was living with Lockmiller but had gone home to Elmhurst, Illinois the previous week to work. (Ex. 24, Swaine 8/29/93 Stmt., pp. 33-34, 5362).

76. Swaine's belongings were in Lockmiller's apartment after he moved in: his "stuff" was on the top bunk in the bedroom, his alarm clock was on the floor of her bedroom, his clothes were in Lockmiller's closet and drawers, his box fan was in her bedroom, a box of his letters was in the living room and his phone list was near the TV. (Ex. 24, Swaine 8/29/93 Stmt., pp. 35-51).

77. Swaine told detectives that when he talked to Lockmiller on Sunday, August 21, Lockmiller said that she had not told Beaman she was living with Swaine. (Ex. 24, Swaine 8/29/93 Stmt., p. 70).

#### **Beaman's Contact with Lockmiller from Rockford**

78. Steinman told NPD detectives Beaman called Lockmiller from Rockford to tell her that he loved her and missed her, but that he was hearing from friends that she had gone out with a guy. (Ex. 27, Steinman Stmt., p. 4; Ex. 13, Ex. 20, Freesmeyer GJ Tr., pp. 150-51).

79. Lockmiller's phone records show she made 28 calls to Beaman's Rockford residence on August 22, 1993. (Ex. 20, Freesmeyer GJ Tr., pp. 148-49; Ex. 16). The next day, August 23, Beaman and Lockmiller spoke on the telephone for 13 minutes. (Ex. 20, Freesmeyer GJ Tr., p. 150; Ex. 16).

80. Beaman told Detective Freesmeyer Lockmiller was asking to get back together with him during the August 23 call, but Beaman said "No, I don't want to talk to you. You fucked my fucking roommate and I don't want to talk to you." Then, he hung up the phone. (Ex. 31, 2/16/94 Overhear Tr., p. 35).

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### THE OTHER SUSPECTS

81. In addition to Beaman and Swaine, Stacey "Bubba" Gates, John Murray, and Rob Curtis had early on in the investigation been investigated as possible suspects. (Ex 4, Zayas, p. 103; Ex. 1, Freesmeyer, p. 63; Ex. 8, Freesmeyer Rpt.). Freesmeyer began focusing exclusively on Beaman. (Ex. 1, Freesmeyer, p. 192).

82. Gates was eliminated as a suspect early on when his alibi was verified. (Ex. 1, Freesmeyer, p. 90). He was teaching at a school in Peoria when Lockmiller was murdered. (Ex. 1, Freesmeyer, p. 277).

83. Tony Daniels was in charge of investigating Murray. (Ex. 5, Daniels, p. 131). Daniels and Hospelhorn interrogated Murray on two occasions, and tape recorded the statements. (Ex. 2, Hospelhorn, pp. 33, 151-50; Ex. 9, Hospelhorn Rpt., pp. B, 1; Ex 10 and 11, Murray Interview Transcripts). The September 2, 1993 interview with Murray revealed the following:

- (a) Murray previously dated Lockmiller.
- (b) Murray visited Lockmiller's apartment sometime between August 19 and 23.
- (c) Murray believed he left Bloomington to go to Byron, Illinois on August 24 at 3 p.m.
- (d) Murray was in Byron until September 1.
- (e) While Beaman and Lockmiller were dating, Beaman "freaked out" and kicked in Lockmiller's door when Murray was inside, and grabbed Lockmiller's arm.
- (f) Lockmiller told Murray she was scared to break up with Beaman because she "did not know what he was going to do" and that Beaman was a "psycho."

(Ex. 10, September 2, 1993 Murray Interview Transcript, pp. 1, 5, 13-14, 17).

84. Daniels and Hospelhorn's September 8, 1993 interview with Murray revealed the following:

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- (a) Murray clarified the last time he saw Lockmiller was on August 21, a date he recalled based on his live-in girlfriend Debbie Mackoway's work schedule.
- (b) Mackoway left their apartment for work at approximately 6:30 a.m. on August 25, and returned to their apartment at 1 p.m.
- (c) Murray was at home from the time Mackoway left for work until the time she returned at 1 p.m.
- (d) Murray was with Mackoway from 1 p.m. to 4 p.m. on August 25.
- (e) Murray left Bloomington for Byron, Illinois on August 25 at 4 p.m.
- (f) Murray returned to Bloomington on September 2.
- (g) Murray sold Lockmiller marijuana.
- (h) Lockmiller owed Murray \$20.
- (i) Murray offered to take a polygraph.
- (j) Murray offered to provide his telephone records to the NPD.
- (k) On the day Murray learned of Lockmiller's death, he and Mackoway moved into a hotel because they believed Beaman killed Lockmiller and were afraid of Beaman.

(Ex. 11, September 8, 1993 Murray Interview Transcript, pp. 2-7, 13-14, 18, 23; Ex. 2, Hospelhorn, pp.151-53).

85. Daniels and Hospelhorn also interviewed Murray's live-in girlfriend, Debbie Mackoway on September 3, 1993 and September 8, 1993. (Ex. 2, Hospelhorn, pp. 33, 151; Ex. 9, Hospelhorn Rpt., pp. 9-10, 4434; Ex. 12, Mackoway Interview Transcripts). Those interviews revealed the following:

- (a) Mackoway was with Murray at their apartment from 2 p.m. to 4:20 p.m. on August 25.
- (b) Murray left Bloomington for Byron, Illinois on August 25 at approximately 4:20 p.m.
- (c) Murray returned to Bloomington on September 1.

- (d) Mackoway last saw Lockmiller on August 21. Mackoway was with Murray when they saw Lockmiller, which she believed was the last time Murray saw Lockmiller as well.

(Ex. 12, Mackoway September 3 and 8, 1993 Interview Transcripts; Ex. 9, Hospelhorn Rpt., p. 10; Ex. 2 Hospelhorn, pp. 154-55).

86. On September 30, 1993, Daniels took Murray to the Morton Crime Lab for a polygraph. (Ex. 5, Daniels, pp. 169, 256, 277-278). Terrance McCann was the polygraph examiner who administered the test to Murray. (Ex. 5, Daniels, p. 254). McCann tried to administer the test to Murray, but was unable to get a result because Murray was unable to comply with McCann's directions. (Ex. 37, McCann, pp. 47-48). McCann did not conclude that Murray intentionally prevented a result to deceive the examiner. (Ex. 37, McCann, pp.198-99). McCann explained to Daniels that the test could not be completed. (Ex. 5, Daniels, P. 261). While driving Murray back to Bloomington, Daniels discussed with Murray taking another polygraph with a female examiner, which might relax Murray so that he could complete the test. (Ex. 5, Daniels, p. 270).

87. During the course of the investigation, Warner received a polygraph report regarding Murray. The report was requested by Daniels, who was the CID detective who was assigned to investigate Murray. Warner made the appointment for the polygraph by calling the polygraph examiner and asking him to set up the Murray examination. (Ex. 3, Warner, p. 38). When Warner received that report, he gave it to Daniels. (Ex. 3, Warner, p. 39). He did not know what Daniels did with the report. (Ex. 3, Warner, pp.45-46).

88. Warner understood that reports that were received from the State Police Lab were also sent directly to the State's Attorney's Office by the State Police Lab. Warner believed that the Murray polygraph report, in addition to being sent to the NPD, would also be

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sent directly by the State Crime Lab to the State's Attorney's Office. (Ex. 3, Warner, pp. 39-40).

89. Daniels does not deny getting the Murray polygraph report from Warner, but he has no memory of it. (Ex. 5, Daniels, pp. 279-80, 677).

90. Daniels has no reason to believe Warner would have done anything to intentionally suppress the Murray polygraph report. During Daniels' deposition, the following colloquy occurred:

Q: Would it be fair to say you don't feel like Dave Warner -- well, you don't believe Dave Warner did anything wrong in this case?

A: In my opinion, Dave Warner did not do anything that would have been illegal or unprofessional.

Q: Okay. You have no reason to believe that Dave Warner would have done something to intentionally hide that polygraph report from anybody?

A: In my opinion, I don't believe he had any motive, anything to gain by that, nor did he do it.

(Ex. 5, Daniels, pp. 435-436).

91. Daniels describes the possible explanations for the Murray polygraph report not being turned over to the State's Attorney as follows:

- (a) Warner gave it to Daniels and Daniels misplaced it. (Ex. 5, Daniels, pp. 677-78);
- (b) An NPD intern who made copies for the file could have misplaced it. (Ex 5, Daniels, pp. 223-24);
- (c) Daniels could have put it in a different file accidentally. (Ex. 5, Daniels, p. 677); and
- (d) The report could have otherwise fallen through the cracks somewhere in the NPD. (Ex. 5, Daniels, pp. 675-66).

92. Freesmeyer's entire knowledge regarding Murray was documented in a comprehensive report Freesmeyer completed. (Ex. 1, Freesmeyer, p. 220; Ex. 8, Freesmeyer

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Rpt.). Kenneth Frankenberry, a state polygraph examiner from Rockford had set up three polygraph examinations at the NPD on October 12, 1993. One was for Beaman's friend, Chris Carbone, one was for Murray, and one for Beaman. (Ex. 1, Freesmeyer, p. 139; Ex. 8, Freesmeyer Rpt., pp.26-271). Murray did not show up for his examination, and Beaman refused. (Ex. 1, Freesmeyer, p. 139; Ex. 8, Freesmeyer Rpt., pp. 26, 29). Freesmeyer was aware that Daniels' interviewing style scared off a lot of the young people he interviewed. (Ex. 1, Freesmeyer, p. 140). Murray's not showing up for a polygraph did not indicate anything suspicious to Freesmeyer. (Ex. 1, Freesmeyer, p. 140). Freesmeyer had no other involvement with the investigation of Murray. Freesmeyer did not interview Murray, and likely never met with him. (Ex. 1, Freesmeyer, p. 87).

93. In February, 1994, several NPD investigators met with homicide detectives at the Chicago Police Department to discuss the investigation. (Ex. 5, Daniels, pp. 318-20). According to Daniels, alternative suspects, including Murray, came up at that meeting. (Ex. 5, Daniels, pp. 325-26). The Chicago detectives recommended that the NPD investigators continue to focus on Beaman as the prime suspect. (Ex. 5, Daniels, p. 321).

#### **THE DECISION TO CHARGE BEAMAN**

94. On May 16, 1994, a meeting was held to decide if Beaman should be arrested for Lockmiller's murder. Attending the meeting were NPD Chief James Taylor, Zayas, Daniels, Freesmeyer, State's Attorney Reynard, and Assistant State's Attorney Souk. (Ex. 6, Souk, pp. 232-36).

95. The investigators provided input on what the nine month investigation had produced. As a result of that discussion, State's Attorney Reynard decided that Beaman should be charged with Lockmiller's murder. (Ex. 6, Souk, p. 140). None of the NPD

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investigators lobbied or urged the State's Attorney to charge Beaman. (Ex. 6, Souk, p. 442). The decision was solely made by Reynard. (Ex. 6, Souk, p. 140). Souk agreed with the decision. (Ex. 6, Souk, p. 179). According to Souk, no one at the meeting expressed any opposition to the decision to charge Beaman. (Ex. 6, Souk, p. 237).

96. In April, 1994, Tony Daniels attended a conference for police agencies on cold case investigations. Daniels was authorized to attend, and planned to discuss the Rostock murder which was unsolved in Normal since the 1970's. NPD Assistant Police Chief Walt Clark suggested that Daniels instead discuss the Lockmiller murder. (Ex. 5, Daniels, pp. 327-28). Daniels copied the entire Lockmiller file in the NPD, and brought it with him to Florida to discuss the case. Daniels returned with a list of investigative avenues that had been suggested for the case. (Ex. 5, Daniels, pp. 205-06, 330).

97. According to Daniels, he brought the list from the Florida conference to the May 16, 1994 meeting and suggested they pursue the list before they proceed with Beaman's arrest. (Ex. 5, Daniels, p. 337). According to Daniels, Souk said "I think we've got our guy" in response to the Daniels suggestion. (Ex. 5, Daniels, p. 463). Souk also said that "we went as far as we can with this case. We are going to go ahead and issue a warrant for [Beaman's] arrest." (Ex. 5, Daniels, p. 340).

98. Freesmeyer agreed with the decision to proceed against Beaman. Freesmeyer concluded there was probable cause for the arrest and prosecution of Beaman based on the following information developed during the murder investigation. (Ex. 1, Freesmeyer, p. 193; Ex. 8, Freesmeyer Rpt.).

- Beaman's fingerprint was on the murder weapon, the cord of an alarm clock used to strangle Lockmiller. (Ex. 1, Freesmeyer, pp. 193, 201);

- The crime scene matched something Beaman confessed about during one of the overhears. (Ex. 1, Freesmeyer, pp. 195-96). Beaman admitted that one time he pulled a garbage bag out of a garbage can in Lockmiller's apartment to search for evidence of condoms deposited by Swaine or some other Lockmiller lover. (Ex. 1, Freesmeyer, p. 210). The police found a garbage bag that had been pulled out of the can and was sitting on the living room couch at the crime scene. (Ex. 1, Freesmeyer, pp. 210-11).
- The police found voluminous letters Beaman had written Lockmiller, which showed an intense passion for her. Telephone records showed 28 phone calls from the Lockmiller residence to Beaman's home residence within the days before the murder. (Ex. 1, Freesmeyer, p. 193).
- There was a hole in Beaman's alibi. (Ex. 1, Freesmeyer, p. 193).
- Beaman had broken down Lockmiller's apartment door to get into her apartment twice before. (Ex. 1, Freesmeyer, p. 193).
- Freesmeyer had asked Beaman several times in interviewed whether he had any evidence or information that could clear him. Beaman's response was that he had nothing. (Ex. 1, Freesmeyer, p. 194).
- Freesmeyer asked Beaman several times whether he had gone anywhere after he got off work the morning of the murder. Beaman said he did not. In reality, Beaman had gone to a bank in Rockford that morning. A video from the bank showed Beaman in the bank at 10:11 a.m., when Beaman had told the police he got off work at 9:00 a.m., and went straight to bed. (Ex. 1, Freesmeyer, pp. 194, 200).
- Beaman's attorney had requested and received the videotape from the Rockford bank in September, 1993, so Freesmeyer concluded Beaman was lying when he said he went straight to bed. (Ex. 1, Freesmeyer, pp. 194, 199).
- Beaman made several suspicious statements on the overhear with Swaine. Beaman said Lockmiller had "dug into him with ounce of sharp silver she had." Freesmeyer concluded that the statement, not generally used as an expression matched that Lockmiller was stabbed in the chest with silver scissors, which had not been reported when the statement was made. (Ex. 1, Freesmeyer, pp. 195-96).
- Beaman told Swaine on the overhear that he knew Swaine was sleeping with Lockmiller because "that pussy never tasted the same," which seemed to be a crude reference about somebody he supposedly loved, immediately after her death. (Ex. 1, Freesmeyer, p. 196).
- Beaman told Swaine that Lockmiller was never going to be happy. In Freesmeyer's homicide investigation training, a killer will often say something

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like that as an effort to justify his action in his own mind. (Ex. 1, Freesmeyer, p. 197).

- Beaman told Swaine that “she (Lockmiller) trained me good and she would have trained you just the same.” Freesmeyer saw the statement as another justification for his actions. (Ex. 1, Freesmeyer, p. 197).
- A fan covered Lockmiller’s face, which Freesmeyer saw as fitting a pattern where a person murders someone he knows than cannot face it. (Ex. 1, Freesmeyer, p. 203).
- Lockmiller was stabbed multiple times after she was already dead. According to the coroner’s report Lockmiller died of strangulation. There was no blood spatter at the crime scene which indicated Lockmiller’s heart was not pumping when stabbed. It was inconsistent with the act of a random person, and indicated the killer had vengeance as a goal. Lockmiller had hurt Beaman very deeply, and no else was known to have any passionate feelings about Lockmiller. (Ex. 1, Freesmeyer, p. 197).
- There was no forced entry. Valuables lying around the apartment. Her purse was laying right there. A burglar would have taken those things and there would have been a forced entry of some type. (Ex. 1, Freesmeyer, p. 211).

99. Souk considered it significant that Beaman’s fingerprints were only found on the clock radio, the murder weapon, and not anywhere else in the apartment. (Ex. 6, Souk, p. 128). Souk considered that there was sufficient evidence to establish probable cause, and a reasonable chance of prevailing at trial. (Ex. 6, Souk, p. 241).

100. Souk considered that Beaman’s motive was based on his intense, passionate love affair with Lockmiller over many months, their stormy relationship, his explosive temper, his acting out on that temper on a number of occasions and Beaman’s reaction when approached by the police after Lockmiller’s body was found. (Ex. 6, Souk, p. 242). Souk thought Beaman’s reaction to Lockmiller’s death was very strange for a person with his passionate love and bitterness toward Lockmiller. (Ex. 6, Souk, p. 244).

101. Souk thought it significant that Freesmeyer interviewed Beaman’s neighbor, Mr. Van Barringer, who said that immediately after Hospelhorn and Daniels interviewed

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Beaman on August 28, 1993, he came to Van Barringer's house and told Van Barringer that he (Beaman) had odometer evidence that would clear him for the murder. (Ex. 6, Souk, p. 243).

102. Souk was aware that someone reported that at some point in time Lockmiller said Beaman threatened to kill her and himself. (Ex. 6, Souk, p. 247).

103. Souk was aware that Murray was investigated as a possible suspect by the police. Souk read two interviews of Murray's girlfriend, Debbie Mackoway and the recorded interviews of Murray. Souk had to make a determination whether they should continue to investigate Murray and decided they would not. (Ex. 6, Souk, p. 258).

104. Souk read Freesmeyer's long report regarding the case. (Ex. 6, Souk, p. 268). Souk thought significant the in-depth evidence of Beaman and Lockmiller's relationship; Beaman's obsession with her; their relationship difficulties; that Beaman broke her door down twice; Beaman drank fingernail polish remover as a result of a fight with Lockmiller; Beaman had called the police falsely reporting Lockmiller was going to kill herself; and a confrontation Beaman had with Swaine at IWU over Lockmiller. (Ex. 6, Souk, p. 279).

105. Souk considered it significant that when Beaman was questioned by Freesmeyer early in the investigation and was asked about his activities of the week of the murder, Beaman immediately began with the day of the murder. (Ex. 6, Souk, p. 281).

106. Todd Heyse, the owner of 412 Main Street, where Lockmiller lived and the murder occurred, told the police that he saw two people fitting the description of Beaman and Lockmiller around the time of the murder, possibly on the exact day. (Ex. 6, Souk, p. 287). Heyse did not contact the NPD until June 1994, after he saw a picture of Beaman in the paper after Beaman's arrest in May 1994. (Ex. 23, Heyse, p. 80). Seeing the photograph of Beaman

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jarred his memory of seeing the two people and prompted him to call the police. (Ex. 23, Heyse, p. 79-81).

107. Souk thought the evidence ruled out a burglar because there was no forced entry, Lockmiller's books and purse were on the kitchen counter and did not look like they were moved, there was no robbery or disarray of the apartment, Lockmiller's remote and car keys were placed on a counter with the television on as though she had just come in, and there was evidence Lockmiller was dragged into the bedroom. (Ex. 6, Souk, p. 287).

108. Souk believed Beaman came to Lockmiller's apartment, got upset when he saw that Swaine had moved in, and killed Lockmiller. (Ex. 6, Souk, p. 288).

109. Souk considered Swaine and Gates excluded by alibis. (Ex. 6, Souk, p. 381).

110. Souk thought that Beaman's motive was the most powerful motive evidence one would ever hear in a court of law. (Ex. 6, Souk, p. 395).

#### THE PROSECUTION

111. Souk was the lead prosecutor in Beaman's case. ASA Terri Dimmick was Souk's second chair for the prosecution. (Ex. 6, Souk, pp. 51, 387).

112. Souk presented the case to the grand jury. (Ex. 6, Souk, p. 83). Freesmeyer, Beaman, Beaman's parents, the director of Beaman's church Youth Ministries, Beaman's co-worker, and Beaman's employer all testified before the grand jury. The Grand Jury concluded on July 14, 1994 and returned a true bill. (Ex. 14, Grand Jury Transcript). Around January 1, 1995, Freesmeyer would move into the State's Attorney's Office as they began to prepare for the Beaman trial. (Ex. 1, Freesmeyer, p. 52).

113. In Souk's mind, Beaman was the only real suspect. (Ex. 6, Souk, p. 194). Souk concluded after reviewing all the information he had about Murray that he was not a

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person of interest. (Ex. 6, Souk, p. 373). At the time of Beaman's prosecution, Souk did not believe there was any evidence to suggest that Murray killed Lockmiller. (Ex. 6, Souk, p. 373). Souk did not believe Murray had any motive to kill Lockmiller, even though Souk was aware of their sexual relationship in the year before her death, that Murray gave narcotics and marijuana to Lockmiller, and that there were some conflicting statements about whether Lockmiller owed Murray money for drugs. (Ex. 6, Souk, pp. 165-167). Souk was aware at the time of the prosecution that Murray claimed Lockmiller owned him some small amount of money, about \$20, for drugs. (Ex. 6, Souk, p. 167).

114. Souk knew at the time of Beaman's prosecution that Murray made a mistake regarding his alibi in his first interview with Daniels and Hospelhorn and corrected it in his second interview. Souk did not consider that to be suspicious. (Ex. 6, Souk, p. 364).

115. Every felony case prosecuted in the McLean County State's Attorney's Office at the time of Beaman's prosecution went through Souk's desk. (Ex. 6, Souk, p. 394).

116. By the end of 1994, Souk was aware of three charges against Murray, two for possession with intent to deliver, and one for domestic violence. The two drug charges were felonies, the domestic battery case was a misdemeanor. (Ex. 6, Souk, p. 170). Souk knew at the time of Beaman's trial that Murray had a domestic battery charge against him by his girlfriend, Debbie Mackoway (Bluestein). (Ex. 6, Souk, pp. 167-68).

117. Souk was aware at the time of Beaman's trial that Mackoway reported that Murray was taking steroids in January, 1994, and that she did not have problems with Murray before that. Mackoway related that Murray had been acting erratically, which she attributed to Murray taking steroids. (Ex. 6, Souk, pp. 325-26).

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118. Murray was never physically violent toward Mackoway until January, 1994. She and Murray had been in a peaceful relationship for the previous four years. (Ex. 22, Mackoway (Bluestein), pp. 34-35).

119. Murray began taking steroids in late 1993/early 1994. Mackoway saw a connection between Murray's steroid use and his violent behavior. (Ex. 22, Mackoway (Bluestein), pp. 36-37). When Mackoway was interviewed by the NPD about Lockmiller's murder in September, 1993, Murray had not been taking steroids and no physical abuse had been occurring at that time. (Ex. 22, Mackoway (Bluestein), p. 41).

120. In September, 1993, Mackoway did not believe Murray killed Lockmiller. (Ex. 22, Mackoway (Bluestein), p. 41). Mackoway has never come to believe that Murray killed Lockmiller. (Ex. 22, Mackoway (Bluestein), pp. 41-42).

121. The state subpoenaed Murray for the Beaman trial and he was on Souk's witness list. (Ex. 6, Souk, p. 387). ASA Dimmick interviewed Murray prior to the trial. (Ex. 6, Souk, p. 388). The state decided not to call Murray. (Ex. 6, Souk, p. 389).

122. Souk flagged information in the State's Attorney's file regarding Murray's pending cases so that the Assistant State's Attorney handling those cases, Robert Freitag, would not offer Murray a plea, in case they wanted to call Murray in the Beaman trial. If there was a plea taken in Murray's pending cases, it could have been used to impeach Murray had the state decided to call him as a witness. (Ex. 6, Souk, pp. 388-89). Souk put a note on that file saying that Murray was a witness in the Beaman case and that Freitag should see Souk before any deals were made with Murray. (Ex. 6, Souk, p. 393; Ex. 15, State's Attorney Case File).

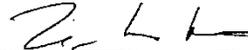
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123. Souk did not consider the face of the polygraph to indicate any wrongdoing or effort to deceive by Murray. (Ex. 6, Souk, p. 440).

124. Souk was not surprised that the McLean County State's Attorney chose not to re prosecute Beaman, because 13 years had passed since the trial, and it would be a monumental effort on the part of police and prosecutors to gather up all of the witnesses and evidence again. (Ex. 6, Souk, p. 66).

Ancel, Glink, Diamond, Bush, DiCianni &  
Krafthefer, P.C.

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4850-2427-6779, v. 1

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IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
MCLEAN COUNTY, ILLINOIS

ALAN BEAMAN, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 TIM FREESMEYER, Former Normal Police )  
 Detective; DAVE WARNER, Former Normal )  
 Police Detective; FRANK ZAYAS, Former )  
 Normal Police Lieutenant; and TOWN OF )  
 NORMAL, ILLINOIS, )  
 )  
 Defendants. )

McLEAN COUNTY  
**FILED**  
 DEC 16 2015  
 CIRCUIT CLERK

Case No. 14 L 51

The Hon. Richard L. Broch

**PLAINTIFF'S STATEMENT OF MATERIAL FACTS**

**I. CERTIFICATE OF INNOCENCE**

1. Alan Beaman was declared innocent of the murder of Jennifer Lockmiller by the Circuit Court for the Eleventh Judicial District on April 29, 2013. Certificate of Innocence (Pl. Ex. 1) at 1-2. The Certificate of Innocence states that Mr. Beaman "is innocent of the offenses charged in the indictment." *Id.* at 1.

2. Five years earlier, on May 22, 2008, the Supreme Court of Illinois ordered Mr. Beaman's conviction vacated in an unanimous opinion based on the State's failure to disclose exculpatory evidence. *People v. Beaman*, 229 Ill. 2d 56, 81 (2008). This decision came after Mr. Beaman more than a dozen years incarcerated for a crime he did not commit.

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## II. ALAN BEAMAN

3. Aside from his wrongful conviction, Mr. Beaman has never been convicted of a crime. Pl. Dep. Dec. 14, 2012 (Pl. Ex. 2) at 408-10.

4. With his parents and older brother, Mr. Beaman spent a quiet childhood in Rockford, Illinois. His mother taught math at the local high school; his father was an engineer. Carol Beaman Dep. (Pl. Ex. 3) at 97, 293. Mr. Beaman was the best man at his older brother's wedding, worked summers at his uncle's grocery store, and joined his family every night at the dinner table. Pl. Dep. Dec. 14, 2012 (Pl. Ex. 2) at 163-64, 175, 178. They worshipped at the local Methodist church and were active members of the congregation. Souk Grand Jury Testimony (Pl. Ex. 4) at 3-5. He attended bible study classes and was described by his youth minister as an "interested, curious student." Continued Hearing on Second Verified Amended Petition for Post-Conviction Relief January 14, 2005 (Pl. Ex. 5) at 37. *Id.* at 160.

5. Music was an important part of Mr. Beaman's life; for as long as he could remember he had been singing, and in the sixth grade he took up the saxophone. Pl. Trial Trans. (Pl. Ex. 6) (Part I) at 1651. In high school, he played in the jazz band and was part of his high school's marching band. *Id.* at 1652. He often played guitar and saxophone at church and was described by his pastor as "[a] natural in music." Olson Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief January 14, 2005 (Pl. Ex 5) at 37.

6. As a high school senior, Mr. Beaman discovered the theater. He designed the lighting for a school play, which sparked an interest in the production side of the stage. Pl. Dep. Dec. 14, 2012 (Pl. Ex. 2) at 16. He decided to attend Illinois Wesleyan University in Bloomington, where he became a theater major. *Id.* at 13. Before long, he was taking an active

role in university and community theater productions, both in Rockford and Bloomington. He played guitar, appeared in one-act plays, and worked on the production side. *Id.* at 14.

7. Mr. Beaman's college career was cut short at the end of his senior year, when he was arrested for the murder of his former girlfriend, Jennifer Lockmiller, and incarcerated for over a dozen years. Freesmeyer Police Reports (Pl. Ex. 7) at 49.

### III. THE VAST UNIVERSE OF POTENTIAL KILLERS

#### A. Unidentified Potential Killers

8. Defendant Frank Zayas, the head of the Normal Police Department Criminal Investigation Division, testified Lockmiller murder could have been committed by a large universe of potential suspects: "In a college town, I mean, there's so many possibilities." Zayas Dep. (Pl. Ex. 8) at 90. Zayas elaborated as follows:

A. The transient nature of the campus. The activities during the day and night, you know. A lot of parties. Kids are always out, all hours of the night and day. The crime scene is on – right on a main thoroughfare, Route 51 ... [I]t was kind of like an open case. We – we had no idea where to go.

....

Q. So there were a lot of different factors that pointed to a potentially broad range of suspects, right?

A. Yes, sir, it did.

*Id.* at 90-92.

9. The crime scene suggested that the murder began as a home invasion. Moses Report (Pl. Ex. 9) at 2. Kenneth Moses, Plaintiff's expert in crime scene investigation, has 40 years of experience in the analysis of forensic evidence. Moses CV (Pl. Ex. 10) at 1. According to Moses, features of the scene that matched the profile of a home invasion include: the time of the murder, the weakened condition of Ms. Lockmiller's lock, the apartment's location on the

top floor of the building, the location of the victim's shoe and earring, the positioning of the body, the placement of a floor fan over the victim's face, the wound pattern on the body, the apparent removal of a bag from the kitchen wastebasket, the apartment's general state of disarray, and food items left on the kitchen counter. Moses Report (Pl. Ex. 9) at 2-4.

10. A close friend testified that Ms. Lockmiller kept a clean apartment, and that the mess depicted in the crime scene photos was inconsistent with the victim's habits. Hartman Dep. (Pl. Ex. 11) at 29, 36. One crime scene photo was inconsistent with the typical state of the apartment because it showed a calendar on the floor and a cooking pot out on a desk. Hartman Dep. (Pl. Ex. 11) at 34; Crime Scene Photo, Ex. 8 in Hartman Dep. (Pl. Ex. 12). Another photo, which showed a pot on the stove and a mess of food out on the kitchen counter, was "really atypical" in light of Ms. Lockmiller's habits. Hartman Dep. (Pl. Ex. 11) at 30-31; Crime Scene Photo, Ex. 6 in Hartman Dep. (Pl. Ex. 13). Burglars often eat and drink their victims' food and dishevel their homes by rummaging around. Moses Report (Pl. Ex. 9) at 3, 4.

11. Jennifer Lockmiller's lifestyle—in particular, frequent drug abuse and multiple sexual partners—brought her into contact with a large and shifting group of dangerous individuals. Brown Dep. (Pl. Ex. 14) at 151-52, 216 (Ms. Lockmiller "liked drugs" and "was always asking for pills," especially Percodan and Darvocet; Belcher Dep. (Pl. Ex. 15) at 139, 142-43 (Ms. Lockmiller had several sources of cocaine and would ask people she had just met for pills).

12. Defendant Timothy Freesmeyer knew that Ms. Lockmiller drank a lot, frequently used drugs, drank and did drugs with several different people, got drugs from a number of different sources, and had multiple sexual partners. Freesmeyer Dep. (Pl. Ex. 16) at 263-64. Freesmeyer did not know whether the investigation excluded the possibility that the murderer

was a drifter or unknown sexual partner and could recall no effort to look for drifters or unknown sexual partners who could have committed the murder. *Id.* at 264-65.

13. On August 21, four days before the murder, Ms. Lockmiller went to various bars with her friends, Morgan Keefe and Kelly Hamburg. At one of the bars, "Spanky's," Lockmiller met a stranger whom Hamburg described as "a long haired guy." Hamburg Interview (Pl. Ex. 17) at AB001654-55. Keefe described this encounter as follows:

Jen is kind of the queen of scamming drinks off of guys. She kind of flirts, you know, and whatever and he bought her a bunch of drinks and then he suggested going to a party afterwards . . . Jen didn't want to go. She just basically wanted drinks from him and then we kind of walked off and . . . I had forgotten about it until Tuesday when we went to the movie she said that that particular guy had called.

Keefe Interview, Sept. 10, 1993 (Pl. Ex. 18) at 6-7. The man with long hair called Ms. Lockmiller on Monday, August 23, two days before the murder. He asked Ms. Lockmiller on a date and was rebuffed. Keefe Interview, Aug. 28, 1993 (Pl. Ex. 19) at 10. *See also* Keefe Interview, Sept. 10, 1993 (Pl. Ex. 18) at 21. This man "kept calling" Ms. Lockmiller. Steinman Interview (Pl. Ex. 20) at 8.

14. When Keefe, Hamburg, and Lockmiller left Spanky's and were en route to another bar, they encountered two other men. Hamburg Interview (Pl. Ex. 17) at AB001655-56. Lockmiller spoke with the two men for approximately ten minutes. *Id.* One of the men gave Lockmiller his phone number, writing it on a piece of paper with lipstick that he borrowed from Keefe. *Id.* at AB001656; Keefe Interview, Sept. 10, 1993 (Pl. Ex. 18) at 21. Lockmiller threw the piece of paper with the man's phone number away. *Id.*

15. On the day before the murder, Hamburg encountered these men again. Hamburg Interview (Pl. Ex. 17) at AB001656. They asked Hamburg why Lockmiller had not called them, and one of them told Hamburg to have Lockmiller call him. *Id.*

**B. Known Paramours With Motives to Murder Ms. Lockmiller**

16. John Murray had an on-again, off-again sexual relationship with Jennifer Lockmiller. Steinman Interview (Pl. Ex. 20) at 8; Murray Interview, Sept. 2, 1993 (Pl. Ex. 21) at 16, 21. At the time of her death, he was seeking to rekindle his relationship with her. Steinman Interview (Pl. Ex. 20) at 8; McKeown Interview Excerpts (Pl. Ex. 22) at 4-5; *Beaman*, 229 Ill. 2d at 67. After Ms. Lockmiller's murder, Murray bragged to police: "[S]he completely like wanted to go out with me still. Like if she was alive today she would be calling me wanting to go back out with me." Murray Interview, Sept. 2, 1993 (Pl. Ex. 21) at 16.

17. During his deposition in this case, Murray invoked his Fifth Amendment right against self-incrimination in response to all questions regarding his involvement in the Lockmiller murder:

Q. Were you involved in the homicide of Jennifer Lockmiller?

A. I'm asserting my Fifth Amendment privilege.

Q. Can you tell me anything at all about whether you were involved in the homicide of Jennifer Lockmiller?

A. I'm asserting my Fifth Amendment privilege.

Q. Are you asserting your Fifth Amendment privileges to any questions that would be asked regarding the homicide of Jennifer Lockmiller?

A. Yes, I am asserting my Fifth Amendment privilege.

Q. Do you know who killed Jennifer Lockmiller?

A. I'm asserting my Fifth Amendment privilege.

Murray Dep. (Pl. Ex. 23) at 18-19.

18. The crime scene suggested that the murder would have required a person who, unlike Mr. Beaman, was of “considerable strength and power to maintain complete control over Jennifer up through wrapping the electrical cord around her neck.” Moses Report (Pl. Ex. 9) at 3.

19. At the time of the Lockmiller murder, Murray was a frightening, physically imposing man. Kuyper Dep. (Pl. Ex. 24) at 63, 65, 117 (stating that Murray “was big. He was big and long, curly dark hair and just – I don’t know how to say it more than he was kind of a scary person”; describing Murray as “someone that could be explosive in his anger”; agreeing that Murray was “physically large” and “scary”).

20. Murray was also a drug dealer, and he sold drugs to Ms. Lockmiller. Murray Stmt. Sept. 8, 1993 (Pl. Ex. 25) at 14-15.

21. At the time of her death, Ms. Lockmiller owed Murray money for drugs. *Id.* at 14. Although Murray’s story was that Ms. Lockmiller owed him approximately \$20, *id.*, Detective Daniels testified that Ms. Lockmiller’s debt indicated that there may “have been other instances where the amount of money that she owed him could have been greater,” and that the fact that there had been financial transactions between Ms. Lockmiller and Murray with respect to illegal substances might have been a motivating factor in Ms. Lockmiller’s homicide. Daniels Dep. (Pl. Ex. 26) at 538-39. This could have contributed to his motive to kill Ms. Lockmiller. *Id.* at 538-39; *Beaman*, 229 Ill. 2d at 67.

22. John Murray beat women. On October 7, 1994, Murray beat his girlfriend, Deborah Mackoway. Mackoway told police officers that she was “the victim of physical abuse” at Murray’s hands “on a continual basis.” Murray Arrest Docs. (Pl. Ex. 27) at 1. Murray “pinned [Mackoway] down on the floor ... and elbowed her repeatedly in the chest.” *Id.* at 1-2. “A friend

of Mackoway ... was present and did verify that there was a prominent red mark between Mackoway's breasts where she had been elbowed." *Id.* at 2.

23. Also on October 7th, Mackoway "reported that there was another argument the night before in which [Murray] grabbed her and scratched her right wrist and caused a bruise on her left arm. Both injuries were evident. She also reported that in the last week she received a bruise to her upper left thigh. She showed this bruise to [police]." *Id.* at 3. Murray was arrested for domestic battery and taken to the McLean County Jail. *Id.*

24. According to Detective Daniels, the information about Murray beating Mackoway was particularly significant because of the manner in which Murray attacked Mackoway – he elbowed her repeatedly in the chest, just as Lockmiller was stabbed in the chest with a scissors. Daniels Dep. (Pl. Ex. 26) at 552.

25. On October 11, 1994, Mackoway filed a Petition for Order of Protection against Murray in the Eleventh Judicial Circuit. Murray Arrest Docs. (Pl. Ex. 27) at 68-78. In the Petition, Mackoway stated that Murray had been experimenting with "street 'steroid' injections," and that as a result of the steroid use, Murray's "behavior since has been unexplainable." *Id.* at 69. She reported that Murray repeatedly inflicted "bruises/injuries including a black eye." *Id.*

26. The court found that Mackoway was "abused within [the Domestic Violence Act]" and entered an emergency order of protection against Murray. Murray Arrest Docs. (Pl. Ex. 27) at 61.

27. Murray had also been using steroids in 1993, the year Ms. Lockmiller was killed. In January of 1993, a search of Mr. Murray's apartment uncovered drugs that included cocaine and steroids. Murray Arrest Docs. (Pl. Ex. 27) at 145. Murray admitted that he had purchased fifteen vials of steroids and had used eleven of them. *Id.* at 104.

28. Murray was violent toward other women as well. He confessed to the polygraph examiner in the Lockmiller homicide investigation that he had slapped a girlfriend four years earlier. McCann Dep. (Pl. Ex. 28) at 176. Leigh Kuyper believed that Mr. Murray "had been violent with" a friend of hers with whom Kuyper worked at a library. Kuyper Dep. (Pl. Ex. 24) at 63.

29. During his deposition, Murray refused to answer any questions about his history of beating women, asserting the Fifth Amendment. Murray. Dep. (Pl. Ex. 23) at 22-23.

30. During the Lockmiller homicide investigation, Murray lied to investigators about several matters, including his whereabouts on the day of the murder. During his first interview with police, Murray claimed that he had left Normal and driven home to the area of Rockford at 3:00 p.m. on August 24, the day before the murder. Murray Interview Sept. 2, 1993 (Pl. Ex. 21) at 5. Murray claimed that he did not return to Normal until September 1. *Id.*

31. Following this interview with Murray, investigators spoke with Deborah Mackoway. Mackoway told investigators that Murray did not leave for Rockford until after 4:20 p.m. on *August 25*, the day of the murder. Mackoway Interview Sept. 8, 1993 (Pl. Ex. 29) at AB001715. Furthermore, on August 25, Murray was alone in his apartment between the time when Mackoway left for work in the morning and 2:00 p.m., when she returned from work. *Id.* at AB001715-16.

32. After interviewing Mackoway, investigators spoke with Murray a second time. Murray confessed that the information he provided in his first interview was not true; that he in fact was in his apartment in Normal on the day of the murder; that, on that day, he was alone beginning at 6:30 a.m. when Mackoway left for work; and that he did not leave for Rockford

until late afternoon or early evening of August 25. Murray Interview, Sept. 8, 1993 (Pl. Ex. 25) at 4-6.

33. At the time of the Lockmiller murder, Murray “resided in Bloomington... approximately 1.5 miles from Jennifer's apartment.” *Beaman*, 229 Ill. 2d at 67; Daniels Testimony, Hearing on Second Verified Amended Petition for Post-Conviction Relief, December 15, 2004 (Pl. Ex. 30) at 123.

34. These shifting claims by Murray as to his whereabouts on the day of the murder elevated suspicion that he committed the crime. Daniels Dep. (Pl. Ex. 26) at 534-35. A suspect’s putting forth a false alibi is “a red flag.” Hospelhorn Dep. (Pl. Ex. 31) at 157.

35. Murray was also dishonest regarding several other matters during his interviews with police:

- a. *Drug Transactions with Ms. Lockmiller*: Murray told investigators in the first interview, “I am not sure where [Jennifer Lockmiller] got the marijuana from.” Murray Interview Sept. 2, 1993 (Pl. Ex. 21) at 10. In the second interview, he admitted that he sold her drugs, including marijuana. Murray Interview Sept. 8, 1993 (Pl. Ex. 25) at 14-15.
- b. *Attempts to Collect Payment for Drugs from Ms. Lockmiller*: During the first interview, Murray claimed in a recent encounter he had with Jennifer and another love interest of hers, the three of them “just talked, you know about you know partying.” Murray Interview Sept. 2, 1993 (Pl. Ex. 21) at 4. During the second interview, however, Murray confessed that Lockmiller drove over because Lockmiller owed Murray money for drugs. Murray Interview Sept. 8, 1993 (Pl. Ex. 25) at 1, 14.

c. *Sex with Ms. Lockmiller*: During the first interview, Murray told investigators he and Ms. Lockmiller were just “talking all night” on a night when Mr. Beaman kicked down the door to Ms. Lockmiller’s apartment. Murray Interview Sept. 2, 1993 (Pl. Ex. 21) at 8. Later in the same interview, he confessed that he had sex with Ms. Lockmiller that night. *Id.* at 16. *See also* Daniels Dep. (Pl. Ex. 26) at 537-38 (Murray gave evasive answers with regard to his sexual relationship with Ms. Lockmiller).

36. Murray also failed to comply with a polygrapher’s instructions during a polygraph examination administered to him in connection with the Lockmiller killing on September 30, 1993. Murray Polygraph Docs. (Pl. Ex. 32) at 2. The questions included, among others, “[a]bout August 25, 1993, did you strangle Jennifer Lockmiller at her apartment?” McCann Post-Conviction Hearing Testimony (Pl. Ex. 33) at 154. The polygrapher’s report stated:

Throughout the course of his polygraph examination, the subject did not follow specific directions given to him which are necessary for the proper completion of a polygraph examination. After being advised several times to follow directions, the subject informed this examiner that he was not able to comply. Subsequently, the subject was dismissed from this laboratory.

Murray Polygraph Docs. (Pl. Ex. 32) at 2.

37. During the incomplete polygraph examination, Murray took nineteen deep breaths and a gulp. McCann Dep. (Pl. Ex. 28) at 171-72. Each of these nineteen deep breaths caused a disruption to the examination. *Id.* at 173. During this process, McCann admonished Murray six times to stop taking deep breaths, but Murray continued to do so. *Id.* at 172-73. Murray sometimes failed to comply with McCann’s instructions to answer the questions “yes” or “no.” *Id.* at 174-75. Murray also smoked marijuana two days before the polygraph and may have done so to foil the examination. *Id.* at 180-81.

38. The polygraph examiner testified that refusing to comply with instructions could have been a strategy to deliberately thwart the examination:

Q. And that response, the response of not following directions, not sitting still, that can be an intentional response on behalf of a suspect; isn't that true?

A. It could be.

McCann Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief January 14, 2005 (Pl. Ex. 5) at 160.

39. Detective Daniels, during his two lengthy interviews of Murray, did not notice any behavior that suggested Murray would be unable to sit still for a polygraph examination. Daniels Dep. (Pl. Ex. 26) at 541-43. To Daniels, Murray's failure to cooperate with the polygraph examination was an indication that he needed to be investigated further. *Id.* at 546.

40. During his recent deposition in this case, Murray refused to answer questions about defying the polygrapher's instructions and attempting to foil the examination, asserting the Fifth Amendment. Murray Dep. (Pl. Ex. 23) at 19-20.

41. In October of 1994, Freesmeyer signed the police reports regarding Murray's arrest on a domestic violence charge. Freesmeyer Dep. (Pl. Ex. 16) at 107-09. He affixed his signature to such police reports at least twelve times. Murray Arrest Docs. (Pl. Ex. 27) at 1-160.

42. These reports included the details cited above, *see* ¶¶ 22-27, *supra*, including the fact that Mackoway was "the victim of physical abuse" at Murray's hands "on a continual basis"; that Murray had pinned her to the floor and elbowed her in the chest, leaving "a prominent red mark between Mackoway's breasts,;" and that Murray had battered Mackoway on the previous night as well, leaving "evident injuries." Murray Arrest Docs. (Pl. Ex. 27) at 1-3.

43. Freesmeyer read and signed these reports before Mr. Beaman's trial. Freesmeyer Dep. (Pl. Ex. 16) at 109-10. At the time he received the reports, Freesmeyer "was familiar that Larbi Murray was being investigated in the [Lockmiller] case." Freesmeyer Dep. (Pl. Ex. 16) at 114.

44. Freesmeyer also learned of Murray's steroid use prior to charging Mr. Beaman. Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 91; *see also* Freesmeyer Dep. (Pl. Ex. 16) at 97. Freesmeyer had no reason to doubt that in the course of the investigation, Murray's failure to cooperate in the polygraph was discussed among the investigators. Freesmeyer Dep. (Pl. Ex. 16) at 145. In fact, he assumed that it would have been discussed in at least one meeting among investigators. *Id.* at 155. *See also* Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 90 (admitting that he "may have been aware" of the John Murray polygraph); Zayas Dep. (Pl. Ex. 8) at 69 (the officers working on a case would be made aware of polygraph reports received in that case).

## 2. Stacy ("Bubba") Gates

45. Stacy Gates, known as "Bubba," was a former boyfriend of Ms. Lockmiller who believed that he and Ms. Lockmiller had a "committed" relationship between January 1991 and July 1993 (the month before the murder), when Ms. Lockmiller broke up with him. Gates Trial Testimony Excerpts (Pl. Ex. 35) at 406. Gates stated that in July, "I received a letter from [Jennifer] breaking up. I didn't want to break up. I screamed and yelled and f[ou]ght." McCann Dep. (Pl. Ex. 28) at 58.

46. At the time of Ms. Lockmiller's death, and despite the break up, Gates considered himself to be Ms. Lockmiller's "boyfriend, her man" and the most important person in her life. Gates Interview (Pl. Ex. 36) at AB002329-30. He viewed Ms. Lockmiller as "the love of [his]

life,” and believed he would marry her and have children with her. *Id.* at AB002309, AB002330-31.

47. Laura McKeown, a close friend of Ms. Lockmiller’s, told investigators that Gates tied Ms. Lockmiller to a curtain rod to do something to her involving cold water. Laura McKeown Stmt. Excerpts (Pl. Ex. 22) at 8. *See also* Gates Dep. (Pl. Ex. 37) at 173 (Q. Have you ever tied Jennifer Lockmiller to a shower rod? A. Yes, to a shower rod.”).

48. Gates moved to Peoria, Illinois from Janesville, Wisconsin just three days before the murder. Gates Interview (Pl. Ex. 36) at AB002333. He relocated in order to be closer to Ms. Lockmiller. McKeown Interview Excerpts (Pl. Ex. 22) at 1.

49. Gates and Ms. Lockmiller made plans to get together the weekend of August 28, *i.e.*, the weekend after the murder. Gates Interview (Pl. Ex. 36) at AB002309, AB002321-22. Gates believed that the purpose of this meeting was to get back together as a couple, that he and Ms. Lockmiller “would be back together officially,” and that he and Ms. Lockmiller missed each other sexually. *Id.* at AB002321-22. At the same time, when Gates and Ms. Lockmiller spoke on the phone on Sunday, August 22nd, Gates was concerned that Ms. Lockmiller might back out on the plan to get together with him. *Id.* at AB002333.

50. Gates left a series of messages on Ms. Lockmiller’s answering machine in the days after her death, including one that said: “This is the Dr. Rev. Martin Luther King, Jr. talking to you all. I’m the teacher of the most niggers.” Gates Trial Testimony (Pl. Ex. 35) at 413.

51. An attempt was made to polygraph Mr. Gates on September 8, 1993. Gates Polygraph Docs. (Pl. Ex. 38) at 2. According to the polygrapher’s report:

There were erratic and inconsistent responses on the subject’s polygraph records which preclude the examiner from rendering an opinion on the following questions:

About two weeks ago, did you strangle Jennifer Lockmiller at her apartment[?]  
Answer: No

Did you strangle Jennifer Lockmiller?  
Answer: No.

Were you present at Jennifer Lockmiller's apartment when she was strangled?  
Answer: No.

Do you know who strangled Jennifer Lockmiller?  
Answer: No.

*Id.* at 2-3.

52. The polygraph examiner scored every answer that Gates gave as "doubtful"/"inconclusive," and agreed it was possible that every one of Gates' responses was a lie. McCann Dep. (Pl. Ex. 28) at 170, 185-86.

53. In speaking with the polygraph examiner, Gates initially denied – and later confessed – to having sex with a minor. *Id.* at 162-64.

54. Defendant Freesmeyer interviewed the principal of the school where Mr. Gates was working as a physical education teacher at the time of the murder. Freesmeyer Police Reports (Pl. Ex. 7) at 35-36. According to the principal, Gates was present at school from 8:00 a.m. to 4:00 p.m. each weekday of the week of the murder, but this recollection was based solely on an attendance sheet that recorded only daily attendance and did not indicate whether Mr. Gates had left campus during the day. *Id.* at 36; Gates Attendance Sheet (Pl. Ex. 39) at 1.

55. It would have been impossible for the principal to monitor the presence of Mr. Gates, and every other teacher, throughout the day. Freesmeyer Dep. (Pl. Ex. 16) at 284-85. Gates had no recollection of whether the principal typically walked through his class once a day, or even once a week. Gates Dep. (Pl. Ex. 37) at 85.

**C. Other Suspicious Characters**

56. Roughly one month after the murder, Defendant Warner and Detective Hospelhorn went to an abandoned truck stop approximately 2.3 miles from Ms. Lockmiller's apartment and "met with a transient who was identified as Danny R Hosey." Danny Hosey Report (Pl. Ex. 40) at 1. Another officer had reported to Warner and Hospelhorn that Hosey had "knives in his car with what appeared to be blood." *Id.* at 1. During a subsequent interview on the following day, "Hosey seemed somewhat disoriented when [Detective Hospelhorn] spoke with him. . . . [Hospelhorn] asked Hosey if he could come to NPD for a[n] interview to which [Hosey] stated he did not think that was necessary. Hosey then started to recite some passages from the Bible and talked about his life at this time." *Id.* at 1.

57. Stacy Gates told Defendant Warner that during the summer before the murder, an individual knocked at the door to Ms. Lockmiller's apartment at two or three in the morning. Gates Interview (Pl. Ex. 36) at AB002326. Standing in the doorway was a man in an overcoat who was "powerfully built" and had a "big rack of shoulders." *Id.* The man said words to the effect of, "I want to talk to her." *Id.* at AB002327.

58. Gates refused to let the individual speak with Ms. Lockmiller, and the individual responded with words to the effect of, "don't you sass me," and, "don't you talk to me that way um or I'll come up there and break the fucking door down." *Id.* at AB002327. Three other males accompanied this individual and were waiting in a car parked outside. *Id.*

59. Gates told Detective Warner that this mysterious figure should be considered a suspect. *Id.* at AB002326. Defendant Warner agreed that the investigators should have followed up on the individual described by Gates. Warner Dep. (Pl. Ex. 41) at 133. The record lacks any indication of follow up regarding this individual.

60. Gates also told Defendant Warner that an individual known as "Psycho Bill," who had dated Ms. Lockmiller, should be considered a suspect. "Psycho Bill" was rumored to lure women into his room and film them, and at one point seemed to be guiding Ms. Lockmiller toward a closet. Gates Interview (Pl. Ex. 36) at AB002328.

61. Investigators learned that Ms. Lockmiller had dated an individual named Cory Price and another individual with the nickname "Joey Yok Yok Monster," and that there was an individual named Jason who was "obsessed" with Ms. Lockmiller. Belcher Dep. (Pl. Ex. 15) 143-44, 151-52.

#### **IV. MR. BEAMAN'S RELATIONSHIP WITH MS. LOCKMILLER**

62. While there was tumult in their relationship during the time when they were dating, Mr. Beaman and Ms. Lockmiller broke up by mutual decision on or about July 25, 1993, at which point Mr. Beaman left Bloomington-Normal and traveled to Cincinnati with a friend. Pl. Trial. Trans. (Pl. Ex. 6) at 1690. Following their break-up, Mr. Beaman and Ms. Lockmiller maintained a civil relationship. When Mr. Beaman last saw Ms. Lockmiller at the beginning of August, Ms. Lockmiller "seemed stable" and the two talked calmly for a short period of time before Mr. Beaman dropped her off at class and then drove home to Rockford. Pl Stmt. Aug. 28, 1993 (Pl. Ex. 42) at 13. Mr. Beaman stated that when he left Ms. Lockmiller on this last occasion, he "felt good[.]" *Id.* at 14.

63. Mr. Beaman and Ms. Lockmiller's mutual friend, Josh Whitney, told investigators that after the break-up, in early August 1993, Mr. Beaman "seemed to me to be in an overall good mood and he had finally, he had finally gotten to the point of where he was no longer angry about anything. He sounded like he wanted to try to be just be [sic] friends with Jennifer again. The general thing I got was that he was in a good mood, I hadn't seen in quite a while." Whitney

Stmt. (Pl. Ex. 43) at 3-4. Michael Swaine also stated that when Mr. Beaman returned from Ohio, “things were ironed out” between Ms. Lockmiller and Mr. Beaman “seemed ok.” Swaine Stmt. Aug. 28, 1993 (Pl. Ex. 44) at AB001450. In August, Mr. Beaman began dating again, seeing a woman in Rockford named Beth Terresi. Pl. Trial Trans. (Pl. Ex. 6) at 1737-39, 1821.

64. Ms. Lockmiller called Mr. Beaman 28 times on Sunday, August 22nd, but none of those calls were answered. *Id.* at 1717. Mr. Beaman did not know about the phone calls until the phone records were produced as part of the criminal trial. *Id.* Mr. Beaman and Ms. Lockmiller did speak with one another on Monday, August 23rd, on a phone call, initiated by Lockmiller, in which Lockmiller told him she wanted to get back together because Michael Swaine, one of the men she was dating at the time, did not want to see her anymore. *Id.* at 1719-21; Carol Beaman Trial Trans. (Pl. Ex. 59) at 1438-41. Mr. Beaman told Ms. Lockmiller that their relationship was over and that he did not want to see her again. Pl Trial Trans. (Pl. Ex. 6) at 1721; Carol Beaman Trial Trans. (Pl. Ex. 59) at 1442.

65. During the period when the two had been dating, there were two occasions on which Mr. Beaman forced open Ms. Lockmiller’s door by kicking it. Both incidents occurred on nights when Ms. Lockmiller was dating Mr. Beaman but having sex with other men, Murray and Swaine. Murray Interview Sept. 2, 1993 (Pl. Ex. 21) at 16. In the incident with Swaine, Mr. Beaman arrived just after Swaine and Lockmiller had oral sex; they were kissing on the way into her bedroom. Swaine Dep. (Ex. 69) at 77-78. Swaine ran into Lockmiller’s closet. *Id.* at 78. Mr. Beaman did not lay a finger on either Lockmiller or Swaine; instead, he gave Swaine, his friend, a ride home, and was calm throughout the drive. *Id.* 82, 85-87, 89-90. Swaine does not recall having any fear for his physical safety at any point that evening. *Id.* at 85.

66. Defendants Freesmeyer and Warner did not know of any evidence suggesting that Mr. Beaman had ever been physically violent toward any individual. *See* Freesmeyer Dep. (Pl. Ex. 16) at 208; Warner Dep. (Pl. Ex. 41) at 173.

**V. LACK OF EVIDENCE AGAINST MR. BEAMAN**

67. Mr. Beaman was at his parents' home in Rockford when the murder occurred in Bloomington-Normal, some 130 miles away. He made calls from his parents' home at 10:37 a.m. and 10:39 a.m. *See infra* ¶¶ 144-45. He was also home at 2:15 p.m., when his mother returned home. *See infra* ¶¶ 135-36 It would have been impossible to leave his parents' home, drive to Ms. Lockmiller's, and get back within that timeframe. Seyfried Report (Pl. Ex. 45) at 4.

68. Since his first interview with police on August 28, 1993, Pl. Stmt. (Pl. Ex. 42) at 9, 38-39, Mr. Beaman has maintained his innocence despite several unsuccessful efforts to elicit a confession:

- a. An accusatory interrogation, conducted late at night on the day body was discovered. *Id.* at 1, 37-49.
- b. An interrogation in which Detective Brown accused Mr. Beaman of the killing and told him "I think you do know" what happened on the day of the murder. Freesmeyer Police Reports (Pl. Ex. 7) at 30.
- c. Two occasions on which Michael Swaine, a friend and former roommate of Mr. Beaman, wore a concealed body wire and spoke to Mr. Beaman about the murder while investigators taped the conversation. *Id.* at 23-25.
- d. An interrogation in which Freesmeyer told Mr. Beaman, "[I]f this facade continues, we're going for the death penalty." *Id.* at 32.

69. No witness placed Mr. Beaman in Bloomington-Normal, much less in the vicinity of Ms. Lockmiller's apartment, on August 25, 1993. Todd Heyse testified that, while driving on a major thoroughfare and not slowing down, he saw a man and a woman walking towards Ms. Lockmiller's apartment. Heyse Trial Testimony (Pl. Ex. 46) at 463-66. He did not see these individuals during the week of the murder. His recollection of when he saw these individuals was connected to the date when he purchased a building. *Id.* at 477 ("Q: And what you saw occurred within apparently four or five days after you purchased the White Horse [building]? A: Yes."). *See also id.* at 465, 467. Heyse purchased the building on August 4, 1993, 21 days before the murder. *Id.* at 1150-53.

70. Heyse's description of the man did not match Mr. Beaman. He told police that the man was wearing "trendy Euro-type of clothing." *Id.* at 476. On August 25, however, the bank video showed Mr. Beaman wearing jeans and a t-shirt. Pl. Trial Trans. (Pl. Ex. 6) at 1729, 1869. Heyse also testified that he did not have a good enough look to be able to identify either of the individuals again if he saw them. Heyse Trial Testimony (Pl. Ex. 46) at 467.

71. As Detective Daniels agreed, no eyewitness could reliably place Mr. Beaman in Bloomington-Normal on the day of the murder. Daniels Dep. (Pl. Ex. 26) at 529,

72. There was no physical evidence implicating Mr. Beaman in the murder. *See infra* ¶¶ 93, 96.

73. The lead prosecutor, James Souk, acknowledged in his deposition that the Beaman prosecution "was a difficult circumstantial case" because of the dearth of physical evidence, the lack of a confession, and the lack of any eyewitness testimony. Souk Dep. (Pl. Ex. 47) at 137. Defendants Freesmeyer and Warner also stated that the evidence against Mr. Beaman

was entirely circumstantial. Freesmeyer Dep. (Pl. Ex. 16 ) at 263; Warner Dep. (Pl. Ex. 41) at 149.

74. When the Supreme Court of Illinois vacated Mr. Beaman's conviction in 2008, the Court noted the "tenuous nature of the circumstantial evidence against Mr. Beaman." *People v. Beaman*, 229 Ill. 2d 56, 80 (2008).

## **VI. DEFENDANTS' ROLES IN THE INVESTIGATION**

### **A. Defendant Timothy Freesmeyer**

75. Early in the case, Defendant Timothy Freesmeyer assumed the role of principal investigator. Daniels Dep. (Pl. Ex. 26) at 66, 184-85, 495-96. He was also the principal detective investigating Alan Beaman. Freesmeyer Dep. (Pl. Ex. 16) at 28.

76. On the first day of the investigation, Freesmeyer had concluded that Mr. Beaman was "the primary suspect." Freesmeyer Dep. (Pl. Ex. 16) at 192.

77. While with the Normal Police Department, Freesmeyer had a disciplinary history that included pepper spraying an individual who was handcuffed and arresting a person without probable cause. Freesmeyer Disciplinary Reports (Pl. Ex. 48) at DEF 97-99.

78. Freesmeyer stated that during the investigation, he and Assistant States Attorney James Souk, the lead prosecutor in the criminal case against Mr. Beaman, worked as a team together. Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 36-37. Freesmeyer would receive the most of the credit if the Lockmiller case was solved, and the most blame if it remained unsolved. Brown Dep. (Pl. Ex. 14) at 114. The Lockmiller homicide investigation was the most high-profile case of Defendant Freesmeyer's career, and he had never been the lead investigator in a murder case. Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 21.

79. Freesmeyer arrested Mr. Beaman on May 17, 1994. Freesmeyer Police Reports (Pl. Ex. 7) at 48-49. Approximately four months later he was promoted to sergeant. Freesmeyer Trial Trans. (Pl. Ex. 50) at 954.

80. Two months prior to trial Freesmeyer began working out of the States Attorney's office. Freesmeyer Post-Conviction Dep. (Pl. Ex 34) at 9.

81. Shortly after Mr. Beaman's conviction, Souk wrote a letter to the Chief of Police, which stated: "Beyond any question in my mind, this case would not have been won without Tim Freesmeyer." Souk Letter (Pl. Ex. 51).

**B. Defendant David Warner**

82. Defendant David Warner was the "evidence technician" when he served as an investigator in the Lockmiller homicide investigation. Warner Dep. (Pl. Ex. 41) at 32; Freesmeyer Police Reports (Pl. Ex. 7) at 39. If an officer wanted evidence analyzed by the lab, Warner would "prepare the paperwork, take it to the lab, pick it up." Warner Dep. (Pl. Ex. 41) at 33. As evidence technician Warner retrieved all of the physical evidence produced in the investigation, including the latent prints obtained from Ms. Lockmiller's apartment. Freesmeyer Police Reports (Pl. Ex. 7) at 39.

83. Defendant Warner was also in charge of investigating Stacy Gates, an alternative suspect. Warner interviewed Gates, from which Warner determined that Gates was in love with Lockmiller but had "over-inflated views of how [Lockmiller] perceived him." Warner Dep. (Pl. Ex. 41) at 116-19. Warner testified that, during the interview, Gates was rambling and incoherent; following the interview, Warner told Zayas that "some more work might need to be done on [Gates]," meaning he had to be investigated further. *Id.* at 120-22. Warner

acknowledged that Gates may have had a motive for Lockmiller's murder. *Id.* at 127-28. Warner did not ever rule Gates out as a suspect. *Id.* at 144-45.

84. Warner also requested and received the polygraph reports for both Gates and John Murray. Warner Dep. (Pl. Ex. 41) at 38, 108-12, 115-16, 135-36. He agreed that following Murray's failed polygraph, further investigation of Murray was warranted. *Id.* at 115-16.

85. On May 17, 1994, Warner aided in Plaintiff's arrest, including by monitoring the conversation that Freesmeyer, who was wearing a body wire, had with Mr. Beaman as Mr. Beaman was taken into custody. Freesmeyer Police Reports (Pl. Ex. 7) at 49.

**C. Defendant Frank Zayas**

86. Defendant Frank Zayas was the Lieutenant "in charge of the detective division," "had ultimate responsibility for [the Lockmiller] case," and supervised the detectives working on the case. Freesmeyer Dep. (Pl. Ex. 16) at 32-33; Zayas Dep. (Pl. Ex. 8) at 69; Daniels Dep. (Pl. Ex. 26) at 486-87. Defendant Zayas continued to supervise the Lockmiller investigation until his retirement in November 1994, six months after Mr. Beaman's arrest. Freesmeyer Dep. (Pl. Ex. 16) at 28, 289; Hospelhorn Dep. (Pl. Ex. 31) at 30-32. He participated in the May 16, 1994 meeting where the decision was made to arrest Mr. Beaman. Freesmeyer Police Reports (Pl. Ex. 7) at 48.

**D. Information Sharing and Contact Among the Defendants**

87. There was a high level of information sharing among the investigators involved in the Lockmiller homicide investigation. Belcher Dep. (Pl. Ex. 15) at 43.

88. Defendant Freesmeyer's reports document that during the Lockmiller homicide investigation, nine investigators' meetings were held, and there may have been even more meetings among investigators not documented in his reports. Freesmeyer Police Reports (Pl. Ex.

7) at 11, 16, 17, 20, 22, 35, 48, 57; Freesmeyer Dep. (Pl. Ex. 16) at 67. Such meetings were held throughout the investigation to “[s]hare information, assignments, who’s doing what.” Warner Dep. (Pl. Ex. 41) at 78; Belcher Dep. (Pl. Ex. 15) at 41-42 (“[W]e had meetings ... to discuss the -- the progress of the case and such.”).

89. Most of the detectives worked all in “one big office . . . It was a cubicle situation. It was very open. And they could talk amongst [themselves].” *Id.* See also Daniels Dep. (Pl. Ex. 26) at 73 (investigators shared information during the investigation).

90. Officers received copies of each other’s reports “throughout the investigation” and were required to read them in order for detectives to stay “all on the same page.” Zayas Dep. (Pl. Ex. 8) at 41-42. See also *id.* at 39; Daniels Dep. (Pl. Ex. 26) at 647.

#### **VII. AUGUST 28, 1993: DAY ONE OF THE INVESTIGATION**

91. On August 28, 1993, Ms. Lockmiller’s partially decomposed body was discovered by Morgan Keefe, an acquaintance of the victim, who called 911. Hartman Dep. (Pl. Ex. 11) at 5, 12. Keefe informed police about various potential suspects, including the unknown men with whom Ms. Lockmiller had flirted in the days before her death. See *supra* ¶¶ 13-14. Keefe also mentioned Alan Beaman. Keefe did not know Mr. Beaman at all well, had met him only once or twice, did not consider him violent, and was not personally afraid of him. Hartman Dep. (Pl. Ex. 11) at 15-16.

92. Keefe testified in her deposition that she was “guessing” when she told the police Mr. Beaman might be the killer, and she didn’t expect that the guesses she expressed to the police would “carry a lot of weight.” Hartman Dep. (Pl. Ex. 11) at 15-16.

93. As August 28, 1993, drew to a close:

- a. The investigators had done nothing to investigate anyone’s alibi.

- b. The investigators had obtained no eye-witness accounts of the murder.
- c. The investigators had obtained no physical evidence linking Mr. Beaman to the crime.
- d. The autopsy had not been completed and no finger prints had been tested. Kennedy Report (Pl. Ex. 52) at 6; Dierker Report Jan. 4, 1994 (Pl. Ex. 64).
- e. The investigators knew that Ms. Lockmiller's apartment lay on a busy thoroughfare in a college town, factors that, according to Defendant Zayas pointed to a broad range of potential suspects. *See supra* ¶ 8.
- f. The investigators had visited the crime scene, Freesmeyer Police Reports (Pl. Ex. 7) at 1-2. which pointed to a burglary-turned-rape as the origin of the murder, *see supra* ¶ 9, and suggested that the crime "would have required a person of considerable strength and power to maintain complete control over Jennifer up through wrapping the electrical cord around her neck." Moses Report (Pl. Ex. 9) at 3.
- g. The investigators had learned by interviewing Mr. Beaman that he was thin and of small stature. Pl. Stmt. Aug. 28, 1993 (Pl. Ex. 42) at 1; Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 244-45 ("Alan's ... not a real big man. He's maybe 120 pounds.")
- h. The investigators had been informed that Ms. Lockmiller was a "partier" who used marijuana, heroin, and LSD, "stayed up late at night," dressed in an "almost sleazy" manner, and engaged in "excessive drinking," Freesmeyer Police Reports (Pl. Ex. 7) at 2, 6.
- i. The investigators had learned about Ms. Lockmiller's various encounters with unidentified men in the days before her death. *See supra* ¶¶ 13-14.
- j. The investigators had obtained Ms. Keefe's guesses about possible suspects. *See supra* ¶ 91.
- k. The investigators had learned that the new paramour, Swaine, had moved in with Ms. Lockmiller two to three weeks before the murder. Keefe Stmt. Aug. 28, 1993 (Pl. Ex. 19) at 4-5.
- l. The investigators had learned that arguments had occurred several months ago between Mr. Beaman and Ms. Lockmiller Freesmeyer Police Reports (Pl. Ex. 7) at 2, and that Mr. Beaman had broken down Ms. Lockmiller's door. Keefe Stmt. Aug. 28, 1993 (Pl. Ex. 18) at 16.

- m. The investigators had received no indication that Mr. Beaman had ever directed violence at any person, and had been told that by Swaine that Mr. Beaman was “not physical.” Swaine Stmt. Aug. 28, 1993 (Pl. Ex. 44) at AB001455.
- n. The investigators had learned from Swaine that Mr. Beaman had left the Bloomington-Normal area in July to disengage from the relationship with Ms. Lockmiller. *Id.* at AB001456-58. Ms. Lockmiller also told Swaine that Beaman had said he was over her and did not love her any more. *Id.* at AB001459.
- o. The investigators had discovered that Ms. Lockmiller had broken up with Gates, but that Gates wanted to get back together, and that the two had plans to see each other two days after the murder occurred. Keefe Stmt. Aug. 28, 1993 (Pl. Ex. 19) at 7-8.
- p. The investigators had reviewed letters from Gates in which he stated, “I know if your pussy isn’t shaved, I want to shave it or have you do it for me,” Gates Letters (Pl. Ex. 82), and old letters from Beaman to Lockmiller which Freesmeyer thought expressed “an enormous love for Jennifer,” Freesmeyer Police Reports (Pl. Ex. 7) at 7.
- q. The investigators knew that Mr. Beaman voluntarily consented to a lengthy interview late at night by two detectives, agreed to accompany them to a police station, agreed to have the interview taped, declared his innocence during the interview, and discontinued the interview only when it became highly accusatory. Hospelhorn Police Report (Pl. Ex. 54) at 2; Pl. Stmt. Aug. 28, 1993 (Pl. Ex. 42) at 37-49.

94. With the evidence in the state described above on Day One of the investigation, Defendant Freesmeyer immediately concluded that Alan Beaman was the primary suspect—and he clung to this conclusion throughout the investigation:

- Q. ... When did Alan Beaman become the prime suspect in this case?
- A. Immediately.
- Q. And did he ever in your mind become something other than the prime suspect?
- A. No.

Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 34. *See also* Freesmeyer Dep. (Pl. Ex. 16) at 192.

95. Other investigators did not share Freesmeyer's view that Beaman should immediately have been considered the primary suspect:

- a. Detective Daniels stated that Ms. Lockmiller "did have and wanted one boyfriend after the other which is why there were so many suspects that weren't excluded in the investigation at first." Daniels Dep. (Pl. Ex. 26) at 160.
- b. Detective Daniels believed that the evening of August 28 was too early to even interview or interrogate Mr. Beaman. *Id.* at 508.
- c. Detective Hospelhorn testified that even after he and Detective Daniels interviewed Mr. Beaman on August 28, they did not form any suspicion as to Mr. Beaman's guilt. Hospelhorn Dep. (Pl. Ex. 31) at 77.
- d. During the investigation, Detective Hospelhorn was skeptical as to Mr. Beaman's guilt and discussed that view with Detective Daniels. Daniels Dep. (Pl. Ex. 26) at 483-84.
- e. During the investigation, Detective Daniels expressed to Defendant Zayas the view that "we didn't have sufficient evidence yet" and that "[i]t was all circumstantial." Zayas Dep. (Pl. Ex. 8) at 117.

96. Defendant Zayas admitted that at the time of his retirement in November 1994 – five months after Mr. Beaman's arrest in May 1994 – the case against Mr. Beaman was "in limbo," "needed more work" and was not ready to be prosecuted:

Q. Were you certain that Alan Beaman killed Jennifer Lockmiller at any point prior to your retirement?

A. No. I don't think we had all the information needed at the time when I left. That was still in limbo. They were still working on it. So at the point, I didn't know.

....

Q ...But it was your sense when you retired that there were still loose ends in the case?

A. Still work to be done.

Q. And that no one could reasonably say with certain[ty] that Alan Beaman was the killer, right?

A. That's true.

MS. EKL: Objection; foundation.

A. My opinion at the time is true.

Q. Was there anything to -- that caused you to doubt whether Alan Beaman was the killer?

A. I think most of the evidence was circumstantial. I like physical evidence, and it wasn't there. It was all, you know, a time frame. So at the time I -- I -- they didn't have it. When I left, they didn't.

Q. When you left you felt that the case against Beaman was -- was weak? Is that a fair statement?

A. At that point -- I'll put it this way.

*I don't think the case was ready to be sent to the State [for prosecution] yet. I think we needed to work on it some more.*

Q. And that was true in November of '94 when you retired?

A. Yes, sir.

*Id.* at 179-81 (emphasis added).

97. Chief Walter Clark instructed Detective Daniels to present the Beaman case at a conference on unresolved cases, entitled "Techniques for Resolving 'Uncleared' Homicides," in Florida in April 1994. Daniels Dep. (Pl. Ex. 26) at 582. Daniels had proposed presenting another case to the conference, but Clark instructed him to present the Lockmiller case, so that it would receive another look. *Id.* at 328, 582.

98. Plaintiffs' expert in criminal investigations, Gregg O. McCrary, who has investigated more than 1000 homicides, McCrary Report (Pl. Ex. 55) at 2, opined that the immediate focus on Mr. Beaman as the primary suspect narrowed and tainted the investigation in two ways. McCrary Report (Pl. Ex. 55) at 3, 9.

99. First, despite a dearth of evidence that Ms. Lockmiller was murdered by a close acquaintance, "the immediate working hypothesis was that a current or former intimate partner had murdered Ms. Lockmiller. While that is one hypothesis, properly trained investigators know that they have to consider all reasonable hypotheses, being careful not to rush to judgment regarding potential suspects or motivations. There is little indication that the defendants seriously considered that the homicide of Ms. Lockmiller was anything other than an intimate partner homicide. In effect, the die was cast." McCrary Report (Pl. Ex. 55) at 9.

100. Second, the list of intimate partner suspects "immediately became a list of one, Alan Beaman." This focus occurred "before any meaningful investigation had even begun, including an autopsy." McCrary Report (Pl. Ex. 55) at 21.

#### **VIII. DISTORTION OF EVIDENCE TO FIT THE IMMEDIATE, UNSUPPORTED CONCLUSION THAT MR. BEAMAN WAS GUILTY**

101. According to McCrary, the Defendants' focus on Mr. Beaman did not end after Day One, but instead continued for the entire investigation, throughout which they "intentionally creat[ed] this false narrative." McCrary Report (Pl. Ex. 55) at 3. "[T]he defendants chose to believe [Mr. Beaman] was guilty and the record clearly shows that they set out to prove that he committed the murder in spite of their protestations of being objective." *Id.*

102. On October 27, 1993, Freesmeyer "informed" Mr. Beaman "that he was going to be arrested for Jennifer's death at one point or another." Freesmeyer Police Reports (Pl. Ex. 7) at

32. Freesmeyer, by his own account, threatened Mr. Beaman with the death penalty, telling Mr. Beaman, “if this façade continues, we’re going for the death penalty.” *Id.*

103. According to McCrary, “[t]hreatening a suspect with the death penalty violates basic police practices. It is coercive and should never be used, especially to try and leverage a confession as it was in this situation. This exchange is clear evidence that Detective Freesmeyer has prematurely concluded that Mr. Beaman is guilty of the murder despite any concrete evidence to support that conclusion and with a large amount of logical investigation incomplete.” McCrary Report (Pl. Ex. 55) at 12-13.

**A. Defendants Focus on a Non-probative Fingerprint**

104. The only piece of physical evidence consisted of fingerprints on Ms. Lockmiller’s alarm clock. The alarm clock revealed seven latent prints – four of which were Michael Swaine’s, two of which were Mr. Beaman’s, and a remaining unidentified print. Dierker Trial Trans. (Pl. Ex. 56) at 503-04. Mr. Beaman’s finger prints were *not* found on the cord of the alarm clock, which was used to strangle Ms. Lockmiller, or on the scissors lodged in her chest. *Id.* at 492-95.

105. There is no way to determine when finger prints are placed on an object. *Id.* at 485, 512.

106. Mr. Beaman had previously spent the night at Ms. Lockmiller’s apartment and used the clock while at her home. Pl. Dep. Dec. 14, 2012 (Pl. Ex. 2) at 501-02; Souk Grand Jury Trans. (Pl. Ex. 4) at 277. This provided, as Mr. Souk agreed, “a reasonable alternate explanation for the fingerprints” because there was no scientific evidence to suggest that Mr. Beaman’s fingerprints were left on the clock radio at the time of the murder. Souk Dep. (Pl. Ex. 47) at 284, 125. *See also* Daniels Dep. (Pl. Ex. 26) at 522-23; *Beaman*, 229 Ill. 2d at 77-78 (stating that the

“fingerprints on the clock radio . . . were explained by [Mr. Beaman’s] relationship with Jennifer”).

107. Defendant Freesmeyer identified Mr. Beaman’s finger-print on the clock as an important piece of evidence against Mr. Beaman. Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 26. He admitted that his view that the fingerprint evidence held any significance was based “solely on [his] own interpretation.” Freesmeyer Dep. (Pl. Ex. 16) at 203.

108. Neither Freesmeyer nor any other Defendant ran the unidentified print found on the clock radio through a federal, state, or local automated fingerprint indexing system (AFIS). Freesmeyer Trial Trans. (Pl. Ex. 50) at 993. The investigators also failed to dust the dishes left out on the counter for finger-prints, even though the home invader/killer might have used them to prepare a snack. Moses Report (Pl. Ex. 9) at 4; *see supra* ¶¶ 9-10.

**B. Defendants Construe Exculpatory Recorded Statements as Evidence of Guilt**

109. Freesmeyer engineered a series of four telephonic overhears and in-person meetings between Mr. Beaman and his friend, Swaine, in which Swaine wore a wire. Freesmeyer Police Reports (Pl. Ex. 7) at 19-20, 22-25; Telephone Overhear Sept. 1, 1993 (Pl. Ex. 70); Telephone Overhear Sept. 2, 1993 (Pl. Ex. 71); In-Person Overhear Sept. 8, 1993 (Pl. Ex. 72); In-Person Overhear Sept. 15, 1993 (Pl. Ex. 73). The purpose of the surreptitiously recorded conversations with Swaine was to “see if [Mr. Beaman] said anything incriminating,” and Swaine put himself forward “as an emotional wreck in order to get [Mr. Beaman] talking.” Swaine Dep. (Ex. 69) at 180-81, 185-86.

110. Freesmeyer also wore a wire during at least three conversations that he had with Mr. Beaman “in the event that he would make . . . incriminating statements.” Freesmeyer Police Reports (Pl. Ex. 7) at 34, 40, 42-43, 48-49.

111. During all of these surreptitiously recorded interactions with Swaine and Freesmeyer, Mr. Beaman did not inculcate himself in the murder. Telephone Overhear Sept. 1, 1993 (Pl. Ex. 70); Telephone Overhear Sept. 2, 1993 (Pl. Ex. 71); In-Person Overhear Sept. 8, 1993 (Pl. Ex. 72); In-Person Overhear Sept. 15, 1993 (Pl. Ex. 73). When Swaine said he just wanted to know what happened to Ms. Lockmiller, Mr. Beaman replied, "Dude, I don't know shit, that's the problem." In-Person Overhear Sept. 8, 1993 (Pl. Ex. 72) at 2. Mr. Beaman also made it clear to Swaine that he no longer had a romantic interest in Ms. Lockmiller at the time of her death. *Id* at 5.

112. After reviewing the transcripts of the various surreptitious recordings, McCrary opined:

Not only did Mr. Beaman deny knowing anything about the murder, but many of the things he said were inconsistent with being jealous about Ms. Lockmiller's relationship with Michael Swaine or anyone else, the alleged motive for her murder according to the defendants' theory. It also refutes the defendant's hypothesis that Mr. Beaman drove to Normal to rekindle his relationship with Ms. Lockmiller. The statements are especially credible as they occurred in what Mr. Beaman thought was a private conversation with a trusted friend. He had no idea that Mr. Swaine was working as an agent for law enforcement and that he was recording this conversation.

McCrary Report (Pl. Ex. 55) at 12.

113. Freesmeyer, however, seized on the fruitless overhears as evidence of guilt and a basis for probable cause, imagining, due to some crude comments about Mr. Beaman's prior romantic relationship with Ms. Lockmiller, that the overhears contained "a number of incriminating statements . . . which to me seemed totally out of place and very alerting." Freesmeyer Dep. (Pl. Ex. 16) at 195.

### **C. Defendants Treat an Exculpatory Crime Scene As Evidence of Guilt**

114. Freesmeyer treated exculpatory features of the crime scene as affirmatively inculpatory and a basis for probable cause. *See infra* ¶¶ 116, 118, 121.

#### **1. Stab Wounds**

115. The pattern and small number of stab wounds inflicted upon Ms. Lockmiller correlate with a murder by a stranger, not an emotionally-charged interaction with a close acquaintance: “Emotionally charged stabbings generally have far greater number of wounds in a frantic pattern.” Moses Report (Pl. Ex. 9) at 4.

116. Freesmeyer, however, interpreted the manner of stabbing as indicating an “act of vengeance over somebody that [Lockmiller] had hurt deeply,” not as “the act of a random person.” Freesmeyer Dep. (Pl. Ex. 16) at 197.

#### **2. Garbage Bag Removed From Kitchen**

117. The fact that the perpetrator pulled a garbage bag out of a kitchen waste basket also correlates with burglary: “Burglars often seek out containers in the form of suitcases, pillow cases, garbage cans, or garbage bags with which to carry out stolen goods. These containers like the garbage container in Jennifer’s kitchen are often left in the middle of the floor if they are not needed.” Moses Report (Pl. Ex. 9) at 4.

118. Freesmeyer claimed that the garbage bag inculcated Mr. Beaman and provided a basis for probable cause because Mr. Beaman once looked through Ms. Lockmiller’s trash for birth control, because he believed she was cheating on him. Freesmeyer Dep. (Pl. Ex. 16) at 210-11.

119. The trash can in Ms. Lockmiller’s bedroom was undisturbed. Bedroom Photos (Pl. Exs. 67-68).

### 3. Box Fan

120. The box fan laid on top of the victim's face also correlates with burglary rather than murder by an acquaintance—it could have been knocked over during a burglar's rummaging, and it is also “not uncommon for a perpetrator to cover the head of his victim while he conducts his search.” Moses Report (Pl. Ex. 9) at 3.

121. Freesmeyer testified that one basis for probable cause was “[t]he fact that at the scene, there was a fan pulled down over her face which oftentimes is done when the victim – the suspect knows the victim.” Freesmeyer Dep. (Pl. Ex. 16) at 197.

#### D. Defendants Treat Mr. Beaman's Disengagement from the Relationship As Evidence of Guilt

122. Mr. Beaman and Ms. Lockmiller mutually decided to end their relationship in July 1993. *See supra* ¶¶ 62-63. Ms. Lockmiller tried to rekindle their relationship, but Mr. Beaman was not interested. She called him 28 times shortly before her death, none of these calls were answered or returned. *See supra* ¶ 64. When the two did speak, on August 23rd, Mr. Beaman told Ms. Lockmiller he was no longer interested in dating. *See supra* ¶ 64.

123. According to McCrary, these circumstances would have demonstrated to reasonable investigators that Mr. Beaman was no longer interested in Ms. Lockmiller: “At the time Ms. Lockmiller was murdered it appears that she was attempting to rekindle her relationship with Mr. Beaman, but he wanted her out of his life. It was she who called Mr. Beaman repeatedly. He did not call her at all. There is no indication that he was demanding that she not leave him. In fact, he consistently maintained that he was done with her and wanted her out of his life.” McCrary Report (Pl. Ex. 55) at 24.

124. Freesmeyer somehow interpreted Ms. Lockmiller's calls, and her unrequited romantic interest in Mr. Beaman as evidence of his guilt and a basis for probable cause. Freesmeyer Dep. (Pl. Ex. 16) at 209-10.

**E. Defendants Hide Evidence Inculcating John Murray**

125. In *People v. Beaman*, the Supreme Court of Illinois unanimously held that Mr. Beaman's criminal defense attorney did not receive material, exculpatory evidence to which he was entitled under *Brady v. Maryland*, including the report of Murray's polygraph. *Beaman*, 229 Ill. 2d 56 at 80-81.<sup>1</sup>

126. The attempt to polygraph John Murray on September 30, 1993, was made "[a]t the request of Detective David Warner." Murray Polygraph Docs. (Pl. Ex. 32) at 2. The polygraph examiner's report was sent by the crime lab addressed to "Detective David Warner," and Defendant Warner received the report. Murray Polygraph Docs. (Pl. Ex. 32) at 2. *See also* Zayas Dep. (Pl. Ex. 8) at 120-22.

127. Upon receiving the polygraph report regarding John Murray, the proper procedure would have been for to read it, submit it to central records, make copies of the report, disseminate copies of the report to all investigators working on the case, and ensure that Defendant Zayas received a copy of the report. Zayas Dep. (Pl. Ex. 8) at 120-22. Defendant Warner had been trained to follow this procedure. *Id.* *See also* Daniels Dep. (Pl. Ex.26) at 662-66.

128. Rather than acting in accordance with this training, and providing a copy of the polygraph report to his supervisor (Defendant Zayas), Defendant Warner claimed that he handed the report to Detective Daniels (who was not Warner's supervisor). Warner Dep. (Pl. Ex. 41) at

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<sup>1</sup> In the Supreme Court opinion, John Murray is referred to as "John Doe."

38, 45-47. Detective Daniels, however, had no recollection of ever receiving the polygraph during the investigation. Daniels Dep. (Pl. Ex. 26) at 429. Detective Daniels had no reason whatsoever to believe that he lost or misplaced the polygraph report, and could not remember ever losing or misplacing an original copy of any investigative report in the course of his career. *Id.* at 725. *See also id.* at 667-68.

129. Warner never gave the Murray polygraph report to Souk. Souk Post-Conviction Dep. (Pl. Ex. 57) at 48.

**F. Defendants Construe a Bank Video Showing Mr. Beaman 125 Miles from the Crime Scene on the Day of the Murder as Evidence of Guilt**

130. On September 24, 1993, Freesmeyer learned from Mr. Beaman's bank, the Bell Federal Savings and Loan in Rockford, that Mr. Beaman made a videotaped deposit at 10:11 am on the day of the murder. Freesmeyer Police Reports (Pl. Ex. 7) at 26.

131. Freesmeyer retrieved the video on October 11. *Id.*

132. The bank in Rockford lay approximately 125 miles from Ms. Lockmiller's apartment in Normal. See [www.mapquest.com](http://www.mapquest.com) (distance between 1466 S. Alpine in Rockford and 412 N. Main in Normal).

133. Rather than viewing the bank video as exculpatory, Freesmeyer considered it inculpatory and a basis for Mr. Beaman's arrest. Freesmeyer Dep. (Pl. Ex. 16) at 194, 200.

134. Freesmeyer thought that Mr. Beaman's not remembering his trip to the bank and not bringing it up when asked if he had information that would demonstrate his innocence somehow suggested dishonesty and guilt. Freesmeyer Dep. (Pl. Ex. 16) at 194, 200.

**G. Freesmeyer Manipulates Time Trials To Cast Doubt on Mr. Beaman's Alibi**

**1. Time Trials Involving the Drive to the Victim's Apartment**

135. Mr. Beaman's mother, Carol Beaman returned to her home, and could verify that Mr. Beaman was there, on August 25 at 2:15 p.m. Carol Beaman Trial Testimony (Pl. Ex. 59) at 1483-85; Carol Beaman Testimony, Hearing on Second Verified Amended Petition for Post-Conviction Relief Dec. 15, 2004 (Pl. Ex. 30) at 51.

136. Mr. Beaman could not have left Rockford at 10:11 a.m. (when bank video shows him making a deposit), killed Ms. Lockmiller, and been home by 2:15 p.m. Such a scenario would have given Mr. Beaman a window of **four hours and four minutes** (the time between the bank deposit at 10:11 and his mother's return home at 2:15) to drive from the Bell Federal Bank in Rockford to Ms. Lockmiller's apartment in Normal, remove most of Ms. Lockmiller's clothing and rape her, strangle Ms. Lockmiller, drive a pair of scissors into her chest, and drive back to his family residence in Rockford. *See* Souk Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief, Jan. 14, 2005 (Pl. Ex. 5) at 207 (agreeing that "generally" the prosecution's theory at trial required Mr. Beaman to "average 75 miles an hour, commit an unplanned crime in 5 to 15 minutes, and return home at the same speed").

137. When Defendant Freesmeyer drove at the speed limit from the Bell Federal Savings and Loan, to Ms. Lockmiller's apartment, and back to the Beaman family residence, it took him **four hours and eleven minutes**. Freesmeyer Police Reports (Pl. Ex. 7) at 53.

138. Freesmeyer then decided to drive faster, exceeding the speed limit and driving at "an average [speed] of 75 mph." *Id.* at 59, 60. At this speed, it took him one hour and forty-eight minutes to drive from Bell Federal Savings and Loan to Ms. Lockmiller's apartment. *Id.* at 60. It took Freesmeyer one hour and fifty-six minutes to drive at this speed from Ms. Lockmiller's

apartment to Mr. Beaman's family residence. *Id.* at 59. The total time for the two legs was **three hours and forty-four minutes**, which would have left Mr. Beaman only 20 minutes – to enter the apartment, commit the rape and murder, and leave.

139. Mr. Beaman could not have driven at an “average speed” of 75 miles per hour, *id.* at 59, 60. To average 75 miles per hour, one must, for example, drive at 90 miles an hour to compensate for any period of time during which one drives at 60 miles per hour. Joshua Whitney testified as follows regarding the condition of Mr. Beaman's car:

Q. So what about [Mr. Beaman's] piece of junk car, as you call it, would not allow him to get to and from Bloomington?

A. It was frequently breaking down. It had engine problems, suspension problems. We commonly referred to it as the millennium falcon, which in the Star Wars motif it was constantly breaking down and having problems that just wouldn't allow for it to drive two hours down and two hours back without fitting into a perfect time frame as was being presented at the time.

....

Q. Well, Alan had that piece of junk car in Bloomington, right?

A. Yes. And he had nursed it back up to Rockford on more than one occasion where he had to stop and get some part working, or he had to get it towed, I believe, on one occasion because it just stopped running.

....

Q. Did it break down during the time you were riding in it?

A. It did not break down at that time, but he had to do several sort of preventive maintenance things to keep it running, check the coolant, refill it, make sure that certain parts of it were working.

Whitney Dep. Excerpts (Pl. Ex. 60) at 70-72 .

140. A college acquaintance of Mr. Beaman described the condition of Mr. Beaman's car during a drive from Bloomington to Tinley Park (a distance of approximately 114 miles) in the summer of 1993: “[I]t was kind of a joke at the time, because the car couldn't go very fast,

you know, and having the other cars around us passing us. And it was kind of a piece of crap, you know...” Kuyper Dep. (Pl. Ex. 24) at 11. *See also id.* at 120-21.

141. Defendants knew about the condition of Mr. Beaman’s car. Freesmeyer had seen the car at least twice: He took pictures of it and helped tow it. Freesmeyer Dep. (Pl. Ex. 16) at 223.

142. Freesmeyer never performed a time trial using a car similar to Mr. Beaman’s, and could not recall whether it would have been possible for Mr. Beaman’s car to travel at an average speed of 75 miles an hour – the speed at which Freesmeyer traveled – on an interstate highway. Freesmeyer Dep. (Pl. Ex. 16) at 224-25.

143. Other investigators were “doubtful” that Mr. Beaman could have made the trip from Rockford to Normal and back in time, considering the condition of Mr. Beaman’s car. Daniels Dep. (Pl. Ex. 26) at 514.

## **2. Time Trials Between the Bank and the Beaman Residence**

144. After visiting the bank, Mr. Beaman returned to his parents’ residence, where he made phone calls at 10:37 a.m. and 10:39 a.m. It was undisputed that two calls were placed from the Beaman residence at 10:37 and 10:39. Beaman Residence Call Detail (Pl. Ex. 61) at 1; *Beaman*, 229 Ill. 2d at 62. The first call was placed to the church office of Mitch Olson, Mr. Beaman’s youth minister; the second was placed to Mr. Olson at his home. Beaman Residence Call Detail (Pl. Ex. 61) at 1; Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 151; *Beaman*, 229 Ill. 2d at 62. The calls lasted two minutes and one minute, respectively. Beaman Residence Call Detail (Pl. Ex. 61) at 1.

145. Alan Beaman placed the calls at 10:37 and 10:39. While Mr. Beaman did not specifically remember making the calls, no one else could have done so. Carol Beaman Trial

Testimony (Pl. Ex. 59) at 1500. Because Mr. Beaman's father, Barry Beaman, was at work at the time, there were only two individuals who could have made the calls – Mr. Beaman and his mother, Carol Beaman. Freesmeyer Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief Jan. 14, 2005 (Pl. Ex. 5) at 215; *Beaman*, 229 Ill. 2d at 62. Carol Beaman, a retired high school math teacher, was certain, both at trial and in Mr. Beaman's post-conviction hearing, that she did not make the calls. Carol Beaman Trial Testimony (Pl. Ex. 59) at 1499; Carol Beaman Testimony, Hearing on Second Verified Amended Petition for Post-Conviction Relief Dec. 15, 2004 (Pl. Ex. 30) at 44-45.

146. Mrs. Beaman had no business with Mr. Olson on August 25, and she had never called Mr. Olson at his home. *Id.* at 45, 47. As a youth minister, Mr. Olson had a closer relationship with Mr. Beaman than with his mother. *See* Olson Testimony, Continued Hearing on Second Verified Amended Petition for Post-Conviction Relief Jan. 14, 2005 (Pl. Ex. 5) at 35-38, 41-42.

147. Mr. Beaman had a reason to call Mr. Olson on August 25. At an upcoming church performance on Sunday, August 29, Mr. Beaman was going to sing and play the guitar, and Mr. Olson was going to accompany him on the keyboard; it was therefore necessary for them to arrange a time to practice. *Id.* at 45-48.

148. The fact that Mr. Beaman was accounted for at his family's home at 10:37 and 10:39 provided a complete alibi. According to Robert Seyfried, Plaintiffs' expert in traffic engineering, it would have been impossible for Mr. Beaman to drive from his parents' residence to Ms. Lockmiller's apartment and back in the allotted time, except by averaging 81 miles per hour, a speed at which he "would have been observed by traffic enforcement personnel and he would have been cited for speeding." Seyfried Report (Pl. Ex. 45) at 4-5.

149. Freesmeyer agreed that Mr. Beaman's returning to the family residence after leaving the Bell Federal Bank "would have crunched the opportunity down considerably," and made it very difficult to conceive of a scenario in which Mr. Beaman committed the murder. Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 65.

150. To support his theory that Mr. Beaman drove straight from the bank to Ms. Lockmiller's apartment, and did not make the 10:37 and 10:39 calls, Freesmeyer set out to discredit Mr. Beaman's ability to leave the bank at 10:11 and arrive at his parent's home by 10:37. Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 237-38. Freesmeyer knew there were two possible routes from the Bell Federal Savings and Loan to the Beaman residence: through downtown Rockford, and using Route 20 (the "bypass route"). *Id.* He performed time trials using both routes. *Id.* The trip through town took him 30 or 31 minutes. Freesmeyer Police Reports (Pl. Ex. 7) at 53; Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 237-38. The trip using the bypass route took only 25 minutes, Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 238, and showed that Mr. Beaman could have left the bank at 10:11 and made the calls at 10:37 and 10:39.

151. Freesmeyer memorialized only the *longer* time trial: "The time required to drive from Alan Beaman's residence to the Bell Federal Bank, observing all speed limits, was 31 minutes." Freesmeyer Police Reports (Pl. Ex. 7) at 53. He omitted the 25-minute time trial from his report. *Id.* at 1-61; Continued Hearing on Second Verified Amended Petition for Post-Conviction Relief, Jan. 14, 2005 (Pl. Ex. 5) at 91. Freesmeyer then destroyed his notes regarding time trials. Freesmeyer Dep. (Pl. Ex. 16) at 182-83.

152. While Freesmeyer mentioned the faster time trial to the grand jury, he concealed it at trial, as in his report. Freesmeyer Trial Testimony (Pl. Ex. 50) at 887-88.

153. In reality there was plenty of time between the bank deposit at 10:11 and the first call at 10:37 for Mr. Beaman to drive from the bank to his parents' home: "[H]e could have easily made a bank transaction at 10:11 a.m. and traveled to his residence in time to make a phone call at 10:37 a.m." Seyfried Report (Pl. Ex. 45) at 4.

154. Freesmeyer agreed that his testimony at trial left the false impression that he had only tested the slower route through town. Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 62, 64.

155. Freesmeyer lied in his report about his reasons for driving the slower route from the bank to the Beaman residence, claiming that he did so because Mr. Beaman told him that he took the slower route: "We then drove the routes that were given us by Alan *during numerous interviews*. The time required to drive from Alan Beaman's residence to the Bell Federal Bank, observing all speed limits, was 31 minutes." Freesmeyer Police Reports (Pl. Ex. 7) at 53 (emphasis added). Freesmeyer later admitted at trial that this statement in the report was untrue: "I don't recall he told me what route he took. He just said he went to the bank and back." Freesmeyer Trial Testimony (Pl. Ex. 50) at 928.

156. Freesmeyer also could not explain why he did not perform a time trial from the bank to the Beaman residence at a speed that exceeded the posted limit, just as he had done when measuring travel time from the bank, to Ms. Lockmiller's apartment, and then back to the Beaman family home. Freesmeyer Testimony, Continued Hearing on Second Verified Amended Petition for Post-Conviction Relief, Jan. 14, 2005 (Pl. Ex. 5), at 89.

157. As McCrary opined: "It is noteworthy that Detective Freesmeyer observed all speed limits when he drove the route through Rockford in support of his theory that [Mr. Beaman] could not have gotten home in time to make those phone calls, but admittedly sped as

he drove to and from Normal to prove that he could make that trip before his mother got home and saw his car.” McCrary Report (Pl. Ex. 55) at 18.

158. Freesmeyer also lied about whether he performed the time trials from the bank to the Beaman family home prior to arresting Mr. Beaman. First, he claimed to have done so. Freesmeyer Dep. (Pl. Ex. 16) at 240-41. Then he admitted that he did not conduct the time trials until after arresting Mr. Beaman. *Id.* at 241-42. At that point, Freesmeyer could not explain his failure to conduct the time trials before the arrest. *Id.* at 242-43.

159. According to McCrary, Freesmeyer’s failure to investigate Mr. Beaman’s alibi prior to arresting him was “completely contrary to the expectations of a reasonable law enforcement investigation. Reasonable law enforcement investigations require that all logical investigation be completed in order to make a determination if probable cause exists to charge anyone.” McCrary Report (Pl. Ex. 55) at 16.

### **3. Time Trials Involving Carol Beaman’s Route**

160. In addition to the fact that Alan Beaman had plenty of time to leave the bank at 10:11 and arrive home well before placing the 10:37 call, *see supra* ¶ 153, records made it clear that Carol Beaman could not have been home at 10:37 and therefore could not have placed the calls. Carol Beaman’s schedule that morning was well documented. She had signed in her mother at a convalescence facility, Independence Village, at 10:00 a.m. Carol Beaman Testimony, Hearing on Second Verified Amended Petition for Post-Conviction Relief, December 15, 2004 (Pl. Ex. 30) at 33. Mrs. Beaman recalled with specificity what she did to assist her mother at the facility, and after describing those tasks, estimated that she spent 20 to 30 minutes in her mother’s room following the sign-in at 10:00 a.m. *Id.* at 33-36.

161. After completing the process of settling her mother into her room, Mrs. Beaman went shopping at a Wal-Mart. *Id.* at 37. The Wal-Mart register receipt shows that Mrs. Beaman paid for her items at 11:10 a.m., and that she purchased numerous objects at various locations within the vast store. *Id.* at 40-43. Mrs. Beaman went directly from Independence Village to the Wal-Mart, and did not drive home between those trips. Carol Beaman Trial Testimony (Pl. Ex. 59) at 1499-1500. Mrs. Beaman stated she did not make the 10:37 and 10:39 a.m. phone calls. *Id.*

162. Additionally, the Wal-Mart was “directly across the street from Independence Village.” Carol Beaman Testimony, Hearing on Second Verified Amended Petition for Post-Conviction Relief, December 15, 2004 (Pl. Ex. 30) at 37. It would have been silly to visit Independence Village, drive home, and then drive *back* to the Wal-Mart, a twenty-one-mile round trip. Matens Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief, January 14, 2005 (Pl. Ex. 5) at 20.

163. Nonetheless, Detective Freesmeyer set out to show that Mrs. Beaman had the time to go home, place the 10:37 and 10:39 phone calls, return to the Wal-Mart, accomplish her shopping, get in line to make her purchases, and finish her transaction by 11:10. Freesmeyer cannot recall and made no record of the route he took between the Beaman home and the Wal-Mart. Freesmeyer Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief, January 14, 2005 (Pl. Ex. 5) at 115-16. Nor does he have a record or recollection of how fast he drove on the unknown route. *Id.* at 119. His timing was from on the street by the Beaman residence, rather than replicating Mrs. Beaman walking from her front door, getting situated in her car, and backing the vehicle out of the driveway. When he arrived at the Wal-Mart, Freesmeyer stayed in his car, rather than entering the store in order to reproduce the walking done by Mrs. Beaman. *Id.* at 120. Freesmeyer ultimately stated that it took him 15

minutes to drive between these locations, but qualified that figure as an approximation. *Id.* at 114-15. Freesmeyer stated he made no effort to quantify or replicate how long Mrs. Beaman was in the store. He conceded that he did not bring with him a copy of the receipt showing her purchases while inside Wal-Mart. Though Mrs. Beaman's shopping was two days before the start of school, Freesmeyer made no inquiries about the how long the cashier lines would be at that time. *Id.* at 121-22.

164. Anthony Matens, an investigator engaged by Plaintiff's counsel, did measure the travel times required from just inside the Beaman home to just inside the Wal-Mart. He did multiple trials, and the least amount of time required was 19 minutes and 25 seconds. Matens Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief, January 14, 2005 (Pl. Ex. 5) at 20-22. He calculated that by leaving that residence at 10:41, allowing under two minutes after the second phone call, Mrs. Beaman would not have pulled into the Wal-Mart parking lot until 11:00 a.m. *Id.* at 25.

**H. Defendants Ignore Evidence from the Victim's Neighbor that Eliminated Mr. Beaman as A Suspect.**

165. Ms. Lockmiller and David Singley lived directly across from each other in the small apartment building at 412 North Main Street. Hospelhorn Police Reports (Pl. Ex. 54) at 15; Singley Interview, Aug. 31, 1993 (Pl. Ex. 62) at 1. The proximity of the two apartments and the fact that the "walls [were] thin" enabled Singley to hear noises coming from Ms. Lockmiller's apartment. *Id.* at 7.

166. When Singley returned to his apartment from class at approximately 2:00 p.m. on the day of the murder, he heard the door to Ms. Lockmiller's apartment being "slammed shut real quick." *Id.* at 5. Approximately five to ten minutes later, he heard the door to Ms. Lockmiller's apartment "open and close again." *Id.* At this time, Singley heard that the stereo in Ms.

Lockmiller's apartment was on. *Id.* at 6. Singley next heard footsteps going downstairs from Ms. Lockmiller's apartment and then exiting the door that leads from the building to the parking lot. Singley Interview, Sept. 8 1993 (Pl. Ex. 63) at 16.

167. When Singley returned to his apartment later that day at approximately 4:30 p.m., the stereo in Ms. Lockmiller's apartment had been turned off, and the TV had been turned on. Singley Interview Aug. 31, 1993 (Pl. Ex. 62) at 7-8; Singley Interview Sept. 8 1993 (Pl. Ex. 63) at 8. The TV remained on until Saturday, August 28, the day the body was discovered. Singley Interview Sept. 8 1993 (Pl. Ex. 63) at 14.

168. Around 2:00 p.m. on the day of the murder, Singley could also hear that the air conditioning to Ms. Lockmiller's apartment was off. *Id.* at 9. By 5:15, however, Singley reported that the air conditioning in Ms. Lockmiller's apartment had been turned on. Singley Interview Aug. 31, 1993 (Pl. Ex. 62) at 8; Singley Interview Sept. 8 1993 (Pl. Ex. 63) at 9.

169. Defendant Freesmeyer himself had conducted an interview of Mr. Singley, which was neither recorded nor transcribed, on the day the body was discovered. Freesmeyer Police Reports (Pl. Ex. 7) at 3.

170. Mr. Singley's statement suggested that Ms. Lockmiller was still alive at approximately 2:00, and that either she or someone else had changed the TV, stereo, and air conditioning well after 12:00 p.m. Souk Dep. (Pl. Ex. 47) at 312.

171. The Singley evidence exculpated Mr. Beaman because it was well known early on in the investigation that Mr. Beaman was with his family in Rockford on the afternoon and early evening of August 25. Pl. Stmt. Aug. 28, 1993 (Pl. Ex. 42) at 6-7.

172. According to McCrary, based on Mr. Singley's statements, "the time of death could easily have been closer to 2:00 PM and Mr. Beaman would then be eliminated as a

suspect. Instead, the defendants purposely chose to ignore Mr. Singley's observations." McCrary Report (Pl. Ex. 55) at 20.

173. On July 11, 1994, Defendant Freesmeyer committed perjury by telling the grand jury that no important information had been gleaned from Ms. Lockmiller's neighbors—thereby concealing the Singley evidence—during a portion of his testimony that involved the time of Ms. Lockmiller's death:

Q. Without going into individual details, were the other residents of the apartment building shortly after the discovery of the body, in the next few days, questioned extensively?

A. Yes. Actually while the crime scene technician was in processing the scene, I waited outside for people to come home. I was able to make contact with the majority of people who lived in that apartment. And they were subsequently asked to come to the station and statements were taken within several days.

Q. Would it be a fair summary of those interviews that all of them produced no eyewitnesses to the crime and **no information that turned out to be particularly helpful in the investigation?**

A. **That's correct.**

Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 141-42 (emphasis added).

174. Freesmeyer also perjured himself by lying about the existence of alternative suspects, especially John Murray. Although there was substantial evidence that John Murray had a motive and opportunity to commit the murder, *Beaman*, 229 Ill. 2d at 76-77; *see also* ¶¶ 16-49, *supra*, Freesmeyer testified as follows to the grand jury:

Q. [O]ther than Mr. Beaman, were you able in the course of your investigation to locate any other person anywhere who had any conceivable motive to kill Jennifer Lockmiller?"

A. No, not necessarily.

Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 172.

**IX. FAIULRE TO INVESTIGATE ALTERNATIVE SCENARIOS AND SUSPECTS**

175. The record in this case contains no indication that Defendants considered similar crimes committed in the same geographical area, using other crimes as a potential source of leads in the Lockmiller murder investigation. Warner Dep. (Pl. Ex. 41) at 168; Brown Dep. (Pl. Ex. 14) at 212; Hospelhorn Dep. (Pl. Ex. 31) at 98; Souk Dep. (Pl. Ex. 47) at 210-211.

176. Defendant Warner agreed that it would have been a good practice to check for crimes similar to the Lockmiller homicide. Warner Dep. (Pl. Ex. 41) at 172. The Mid-States Organized Crime Information Center (“MOCIC”) maintains a database that enables investigators to gain leads in one crime by ascertaining whether similar crimes have occurred. *Id.* at 169-70.

177. Defendant Warner knew that Ms. Lockmiller spent time with several different men, would go to bars and meet people, had a number of sexual partners, and had a number of people moving in and out of her life. Warner Dep. (Pl. Ex. 41) at 153-54. Warner had no idea whether any investigation was undertaken as to whether the killer was an unknown sexual partner or “just some random person.” *Id.* at 149-51.

178. Defendant Zayas knew that Ms. Lockmiller “was always at parties, drank heavily, was very sexually active[.]” Zayas Dep. (Pl. Ex. 8) at 91. He could identify no piece of evidence that excluded the possibility that Ms. Lockmiller was killed by an unknown drifter. *Id.* at 178-79.

179. There also was no systematic effort to contact the individuals with whom Ms. Lockmiller had class, including the 11:00 a.m. class she likely attended immediately before the murder, in order to identify such individuals and find out who had last seen Ms. Lockmiller alive. The record is devoid of any evidence that such efforts were systematically undertaken, and Defendants have no recollection of such efforts. *See* Freesmeyer Dep. (Pl. Ex. 16) at 266-67; Hospelhorn Dep. (Pl. Ex. 31) at 99.

180. According to McCrary: “The lack of a thorough victimology and failure to look for prior similar crimes, as well as known sex offenders and burglars in the area . . . unduly limited the scope of this investigation.” McCrary Report (Pl. Ex. 55) at 23.

181. Although investigators learned that Ms. Lockmiller encountered and flirted with various unknown men in the days before her death, *see supra* ¶¶ 13-15, there was no effort to find and identify these individuals. While Kelly Hamburg did not know the full names of the men, he offered to find out. Hamburg Interview (Pl. Ex. 17) at AB001658. He believed that one of them was named Jeremy or Justin, and that an individual named Arthur Berron would be able to provide their identities. *Id.*

182. The record contains no indication that investigators followed up on these leads. Defendant Warner admitted that these leads should have been investigated, but was not aware of any effort to do so. Warner Dep. (Pl. Ex. 41) at 161-64; *see also* Freesmeyer Dep. (Pl. Ex. 16) at 269-70.

183. The record contains no evidence that investigators canvassed the bars that Ms. Lockmiller frequented or made a systematic effort to speak with bartenders, other staff, or bar regulars, regarding potential leads. Freesmeyer Dep. (Pl. Ex. 16) at 265; Brown Dep. (Pl. Ex. 14) at 213, 216; Warner Dep. (Pl. Ex. 41) at 150-53.

184. The record lacks any indication of follow up regarding Mr. Hosey, *see supra* ¶56, including testing the substance that resembled blood or performing a criminal background check. Warner Dep. (Pl. Ex. 41) at 167-68; Freesmeyer Dep. (Pl. Ex. 16) at 271-72. A criminal background check should have been performed on Hosey, Warner Dep. (Pl. Ex. 41) at 167-68, and would have been an easy thing to do. Freesmeyer Dep. (Pl. Ex. 16) at 271.

185. The record contains no evidence of any follow up regarding “Psycho Bill,” *see supra* ¶ 60. There was a database maintained by the Normal Police Department to identify individuals based on nicknames, but Warner was unaware of anyone using the database to attempt to identify “Psycho Bill.” Warner Dep. (Pl. Ex. 41) at 134-35.

186. There is no evidence in the record of any follow up regarding Cory Price, “Joey Yok Yok Monster,” and “Jason,” who was “obsessed” with Ms. Lockmiller. *See supra* ¶ 61; Belcher Dep. (Pl. Ex. 15) at 143-44, 151-52.

187. Defendant Zayas admitted that as of his retirement in November 1994 (well after Mr. Beaman’s arrest in May 1994), the investigation had not excluded other suspects.

Q. And that process of foreclosing other suspects, in your mind, had not been accomplished as of November ’94?

A. No, still had a lot of work to do.

Zayas Dep. (Pl. Ex. 8) at 182.

188. Defendant Freesmeyer could not remember whether he even cared about the existence of alternative suspects:

Q. Would you have cared about the possibility of there being an alternative suspect in the Lockmiller homicide investigation?

....

THE WITNESS: Looking back now, yes, I would have cared; *but I can’t remember what my feelings were at that point, sir.*

Freesmeyer Dep. (Pl. Ex. 16) at 134 (emphasis added). Freesmeyer also did not remember whether he considered the evidence against Murray prior to the decision to arrest Mr. Beaman. *Id.* at 248.

189. McCrary opines, “it is clear that John Murray was a more viable suspect than Mr. Beaman,” but Freesmeyer “devalued all of this information about John Murray stating that the

totality of those circumstances, ‘did not raise a red flag that this is our person.’” McCrary Report (Pl. Ex. 55) at 21-22.

190. Defendants did not compare the unidentified finger-print on the murder weapon, *see* ¶ 104, *supra*, to Murray’s fingerprints. *See* Dierker Trial Testimony (Pl. Ex. 56) at 489, 503-04 (indicating that the fingerprints on the clock were only checked against the known fingerprints of Alan Beaman, Michael Swaine, and Jennifer Lockmiller); Dierker Report Jan. 4, 1994 (Pl. Ex. 64) at AB000162.

191. According to Detective Daniels, the case against Mr. Beaman was not ready for charges to be filed because suspects such as Murray had not been eliminated, and the evidence implicating Murray was as strong, or stronger, than the evidence implicating Mr. Beaman. Daniels Dep. (Pl. Ex. 26) at 531, 559-60, 705; Hospelhorn Dep. (Pl. Ex. 31) at 158-59. The October 1994 arrest of John Murray on domestic violence charges, *see* ¶¶ 40-42, *supra*, deserved “more attention” in connection with the Lockmiller homicide investigation. Daniels Dep. (Pl. Ex. 26) at 500-01; *see also* Freesmeyer Dep. (Pl. Ex. 16) at 148 (stating that by the end of the investigation, Murray’s alibi should have been thoroughly investigated); Warner Dep. (Pl. Ex. 41) at 115-16 (stating that the John Murray polygraph report suggested that further investigation of John Murray was necessary).

192. Even though Mr. Beaman became the primary suspect on Day One, there was “no attempt to seize and conduct forensic examinations of his clothing and footwear for injuries and trace evidence,” the absence of which would have helped to clear him. Moses Report (Pl. Ex. 9) at 5.

**X. ARREST, FREEDOM, AND EXONERATION**

193. On May 16, 1999, at a meeting among investigators and prosecutors, a decision was made to charge Mr. Beaman with Ms. Lockmiller's murder. Daniels Dep. (Pl. Ex. 26) at 337-40; Freesmeyer Police Reports (Pl. Ex. 7) at 48.

194. At the meeting, Freesmeyer supported the decision to arrest Mr. Beaman. Freesmeyer Dep. (Pl. Ex. 16) at 79.

195. Zayas, the head of the detective division, also participated in the meeting. Freesmeyer Police Reports (Pl. Ex. 7) at 48.

196. Daniels told his superiors that "if a warrant came down and they wanted me to execute the warrant on Alan Beaman, that I was going to refuse." Daniels Dep. (Pl. Ex. 26) at 619.

197. At the time of Mr. Beaman's arrest, other investigators within the Normal Police Department did not believe that John Murray had been eliminated as a suspect. Arney Dep. (Pl. Ex. 65) at 14-15; Pantograph Article April 12, 1997 (Pl. Ex. 66).

198. Defendant Warner testified that he did not know whether all potential suspects in Lockmiller's homicide, including Gates, were ever cleared. Warner Dep. (Pl. Ex. 41) at 142, 144-45.

199. Freesmeyer testified that, among the NPD investigators "there may have been doubts as to whether we had enough to convict [Mr. Beaman]." Freesmeyer Dep (Pl. Ex. 16) at 76.

200. Mr. Beaman was arrested in May 1994 primarily because the spring semester was coming to a close; the Defendants had no reason to consider Mr. Beaman a flight risk. *Id.* at 312-13; Warner Dep. (Pl. Ex. 41) at 64-66.

201. Nearly fifteen years later, on May 22, 2008, the Supreme Court of Illinois granted Mr. Beaman's post-conviction petition and vacated his conviction, allowing him to be released from prison. *People v Beaman*, 229 Ill. 2d 56 (2008). The States Attorney's Office then dropped all charges. Souk Dep. (Pl. Ex. 47) at 63.

202. Mr. Beaman petitioned for a certificate of innocence. After receiving DNA testing requested and directed by the State, DNA Reports (Pl. Exs. 74 and 75), the State dropped its opposition to the petition, Certificate of Innocence (Pl. Ex. 1) at 1.

203. On April 29, 2013, Mr. Beaman was declared innocent of the murder of Jennifer Lockmiller by the Circuit Court for the Eleventh Judicial District. Certificate of Innocence (Pl. Ex. 1) at 1-2.

204. The Normal Police Department has never attempted to run the recovered DNA through a national database.

205. Ms. Lockmiller's murderer remains at large.

Respectfully submitted,

**ALAN BEAMAN**

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**CERTIFICATE OF SERVICE**

I, David M. Shapiro, an attorney, certify that I caused the foregoing document to be served upon:

Thomas G. DiCianni  
Lucy B. Bednarek  
Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer, P.C.  
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Chicago, Illinois 60603

by electronic transmission and by placing the same in a properly addressed, postage pre-paid envelope for delivery by U.S. Mail before the hour of 5:00 p.m. on Tuesday, December 15, 2015.

s/David M. Shapiro

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
MCLEAN COUNTY, ILLINOIS

McLEAN COUNTY  
**FILED**  
DEC 16 2015  
CIRCUIT CLERK

ALAN BEAMAN, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 TIM FREESMEYER, Former Normal Police )  
 Detective; DAVE WARNER, Former Normal )  
 Police Detective; FRANK ZAYAS, Former )  
 Normal Police Lieutenant; and TOWN OF )  
 NORMAL, ILLINOIS, )  
 )  
 Defendants. )

Case No. 14 L 51  
The Hon. Richard L. Broch

**PLAINTIFF'S RESPONSE TO DEFENDANTS' STATEMENT OF FACTS**

**Statement No. 1 reads:** On April 1, 1995, Plaintiff, Alan Beaman was found guilty by a jury of the murder of Jennifer Lockmiller. Beaman was sentenced to 50 years in the Illinois Department of Corrections. Beaman spent 13 years in prison, and was released in 2008 based on the Illinois Supreme Court's decision in *People v. Beaman*, 229 Ill.2d 56 (2008). (2d. Am. Compl. ¶60). The Court held the State violated Beaman's right to due process under *Brady v. Maryland*, 373 U.S. 83 (1963) by failing to disclose material information about a viable alternative suspect – John Murray. *Beaman*, 229 Ill.2d 56. The undisclosed evidence consisted of four points: (1) Murray failed to complete a polygraph examination; (2) Murray was charged with domestic battery and possession of marijuana with intent to deliver prior to Beaman's trial; (3) Murray had physically abused his girlfriend on numerous prior occasions; and (4) Murray's use of steroids caused him to act erratically. *Id.* at 75.

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**RESPONSE:** Disputed. This statement does not set forth the entirety of Mr. Beaman's post-conviction legal proceedings. Mr. Beaman received a Certificate of Innocence on April 29, 2013 from Judge Jeffrey Ford of the Circuit Court of McLean County. Certificate of Innocence (Pl. Ex. 1); *see also* Plaintiff's Statement of Facts ("Pl. SOF") ¶¶ 1-2.

**Statement No. 2 reads:** Defendant Timothy Freesmeyer was a police officer for the Town of Normal Police Department ("NPD"), from March 12, 1990 until August, 2000. (Ex. 1, Freesmeyer, pp. 16, 21). Freesmeyer worked as a detective in the NPD's Criminal Investigations Division (CID) from 1991 to 1995. (Ex. 1, Freesmeyer, pp. 17, 19).

**RESPONSE:** Undisputed

**Statement No. 3 reads:** Defendant Dave Warner started as a police officer in the NPD in 1983. He worked as a detective for seven years, as an evidence technician, arson investigator, as a patrol and administrative sergeant, an administrator lieutenant, and currently serves as the NPD's day shift lieutenant. (Warner, pp. 30-32).

**RESPONSE:** Undisputed.

**Statement No. 4 reads:** Defendant Frank Zayas started his employment with the NPD in 1968. (Ex. 4, Zayas p. 16). He was the lieutenant in charge of CID at the time of the Lockmiller murder and throughout the murder investigation until his retirement in November, 1994, except he was assigned out of CID from February until June, 1994, when he resumed his position in CID. (Ex. 4, Zayas, pp. 20, 23; Ex. 5, Daniels, p. 683).

**RESPONSE:** Disputed. Zayas was a CID investigator throughout the entirety of the Lockmiller investigation, including from February to June 1994. Zayas Dep. (Pl. Ex. 8) at 20-23 (stating that he was a lieutenant in charge of CID “at the time of the Lockmiller homicide investigation,” until his retirement from NPD in November 1994); Freesmeyer Police Reports (Pl. Ex. 7) at 44 (documenting 2/18/84 meeting between Zayas, Daniels, and Freesmeyer and members of the Chicago Police Department Violent Crimes Unit to discuss progress of Lockmiller investigation); *id.* at 48 (documenting May 16, 1994 meeting, attended by Zayas and the other defendants, at which the decision was made to arrest Mr. Beaman for Ms. Lockmiller’s murder); Daniels Dep. (Pl. Ex. 26) at 658-59 (testifying that Zayas served as a lieutenant in the CID at the time of both the February 1994 and May 1994 meetings documented in Freesmeyer’s report).

**Statement No. 5 reads:** Rob Hospelhorn was a detective in CID part of the time of the Lockmiller murder investigation. He has worked for the NPD from 1988 to the present. (Ex. 9, Hospelhorn, p.17).

**RESPONSE:** Undisputed.

**Statement No. 6 reads:** Tony Daniels was a detective in CID at the time of the Lockmiller murder investigation. He was assigned as the temporary head of CID on Zayas’ departure, from March 7, 1994, until Zayas’ return in June of 1994. (Ex. 5, Daniels, pp. 683-84). He later served as the head of CID. (Ex. 5, Daniels, p. 392).

**RESPONSE:** Disputed. Daniels stated that he was not head of CID until after Zayas retired from NPD. Daniels Dep. (Pl. Ex. 26) at 392. *See also* Plaintiff’s Response to Defendants’ Statement of Facts (“Pl. Resp. to Def. SOF) ¶ 4.

Statement No. 7 reads: James Souk was the Chief of the Felony Division in the McLean County State's Attorney's Office at the time of the Lockmiller murder. In January, 1997, Souk left that position to become an Associate Judge in McLean County, and was later elected Circuit Court Judge. Souk was the lead prosecutor for Beaman's prosecution for Lockmiller's murder. (Ex. 6, Souk, pp. 28, 51).

**RESPONSE:** Undisputed.

Statement No. 8 reads: Charles Reynard was the elected State's Attorney for McLean County at the time of the Lockmiller murder and Beaman's prosecution. He is currently a Circuit Court Judge in McLean County. (Ex. 18, Reynard, pp. 16, 30).

**RESPONSE:** Undisputed.

Statement No. 9 reads: On August 28, 1993, Jennifer Lockmiller's decomposed body was found in her apartment at 412 N. Main Street, Normal, Illinois. Lockmiller was a student at Illinois State University (ISU) at the time. Lockmiller had been strangled with an electrical cord from an alarm clock in her bedroom and had been stabbed in the chest with a pair of scissors. (Compl. ¶91). Zayas, who went to the crime scene with Warner, described it as "gruesome." (Ex. 4, Zayas, p. 89).

**RESPONSE:** Undisputed.

Statement No. 10 reads: Lockmiller's body was found by her girlfriend, Morgan Keefe (Hartman), who after attempting to contact Lockmiller for several days, went to her apartment,

found the body and called the police. Keefe identified Alan Beaman as the killer -- Lockmiller's ex-boyfriend who Lockmiller was afraid of because of his behavior. According to Keefe, Beaman broke down Lockmiller's door several times and threatened suicide if she broke up with him. (Ex. 3, Warner, p. 52-53, 159; Ex. 7, Keefe Stmt.; Ex. 21, Keefe (Hartman), p. 27).

**RESPONSE:** Disputed. Keefe had absolutely no personal knowledge related to the murder. Hartman Dep. (Pl. Ex. 11) at 14-15. Keefe testified in her deposition that she was "guessing" when she told the police Mr. Beaman might be the killer, and she "didn't expect that the guesses [she] expressed to the police would carry a lot of weight." *Id.* at 15-16. Keefe did not know Mr. Beaman at all well, had met him only once or twice, did not consider him violent, and was not personally afraid of him. *Id.*

The claim that Mr. Beaman forced open Ms. Lockmiller's door "several times" by kicking it untrue. Investigators learned that this happened on two occasions during the period when Mr. Beaman was dating Ms. Lockmiller and on nights when Ms. Lockmiller was having sex with other men. Pl. SOF ¶ 65.

This statement is also disputed in that it implies that the interview only pointed toward Mr. Beaman as a suspect. Keefe also identified Ms. Lockmiller's ex-boyfriend, Stacey "Bubba" Gates and current love interest Michael Swaine as potential persons of interest. Keefe Stmt. Aug. 28, 1993 (Pl. Ex. 19) at 5-8. Keefe also identified suspicious individuals whom Ms. Lockmiller encountered during a bar outing shortly before her death. *See* Pl. SOF ¶¶ 13-15.

**Statement No. 11 reads:** The crime scene was a two-story frame apartment building containing four apartments. (Ex. 18, Kennedy Trial Tr., pp. 213-216; Ex. 25, NPD Crime Scene Rpt., p. 73). Lockmiller's body was found in apartment No. 4, which was on the west end of the second floor.

(Ex. 18, Kennedy Trial Tr., p. 216; Ex. 25, NPD Crime Scene Rpt., p. 74; Ex. 8, Freesmeyer Rpt., p. 1).

**RESPONSE:** Disputed. It is misleading to assert that the victim's apartment was at the "west end" of the second floor. Only two apartments were located on the second floor, Ms. Lockmiller's and that of her neighbor, David Singley. The two apartments were separated by a landing, which was just slightly wider than the flight of stairs that led to it. See Singley Stmt. Aug. 31, 1993 (Pl. Ex. 62) at 5; Singley Stmt., Sept. 8, 1993 (Pl. Ex. 63) a 3

**Statement No. 12 reads:** When the police arrived at the scene, the main entrance to the 412 N. Main apartment building was unlocked. (Ex. 18, Kennedy Trial Tr., pp. 211-212; Ex. 25, NPD Crime Scene Rpt., p. 73; Ex. 7, Keefe Stmt., p. 15; Ex. 20, Freesmeyer GJ Tr., p. 135). The door to Lockmiller's apartment had a deadbolt and chain. (Ex. 25, NPD Crime Scene Rpt., p. 74; Ex. 18, Kennedy Trial Tr., pp. 211-212). NPD detectives learned Lockmiller always locked her door. (Ex. 1, Freesmeyer Dep., pp. 212-213).

**RESPONSE:** Disputed. While there was a deadbolt on the door, the crime scene technician testified—in the very portion of his testimony that Defendants cite above—that there was evidence of "the deadbolt being left open periodically." Kennedy Trial Tr. (Pl. Ex. 79) at 211-12. Freesmeyer testified, in the portion of his deposition that the Defendants cite, that the victim "typically" locked the door—and he said nothing about dead bolting it. Freesmeyer Dep. (Pl. Ex. 16) at 212-13. Freesmeyer agreed that it "would have been a possible [for the perpetrator] to unlock the door without leaving a sign of having done so." *Id.* Plaintiff's expert on crime scene analysis noted that the state of the crime scene indicated a home invasion that turned into a rape when the intruder found Ms. Lockmiller in the apartment and that home invaders often open

doors with pieces of plastic called "loids" that leave no signs of forced entry. Moses Report (Pl Ex. 9) at 2-5.

**Statement No. 13 reads:** The door to Lockmiller's apartment contained signs of damage which included a crack in the door frame and marks on the inside of the door frame that appeared to be from the deadbolt lock being left in the lock position when the door was closed. (Ex. 18, Kennedy Trial Tr., pp. 219-220; Ex. 25, NPD Crime Scene Rpt., p. 74). NPD detectives learned the door damage was present prior to the date of Lockmiller's murder. (Ex. 18, Kennedy Trial Tr., pp. 211-220; Ex. 20, Freesmeyer GJ Tr., pp. 134-35). There were no visible signs of recent forced entry to Lockmiller's apartment. (Ex. 18, Kennedy Trial Tr., pp. 211-212; Ex. 25, NPD Crime Scene Rpt., p. 74; Ex.1, Freesmeyer, pp. 211-213, 264; Ex. 20, Freesmeyer GJ Tr., pp. 134-35).

**RESPONSE:** Disputed. While there were not visible signs of forced entry, the door easily could have been opened by a home invader without leaving any such signs. *See* Pl. Resp. to Def. SOF ¶ 12. Ms. Lockmiller periodically left the deadbolt open. Kennedy Trial Tr. (Pl. Ex. 79) at 211-12. Moreover, the crime scene as a whole suggested a home invasion turned rape. Moses Report (Pl Ex. 9) at 2-5.

**Statement No. 14 reads:** A gold-colored, hoop-type earring was found lying on the floor approximately three feet inside the doorway. (Ex. 18, Kennedy Trial Tr., pp. 211-221, 239-240; Ex. 25, NPD Crime Scene Rpt., p. 74). A red shoe was lying in the hallway outside the bedroom door and a gold colored earring similar to the earring by the entrance door was found on the

bathroom floor. (Ex. 18, Kennedy Trial Tr., pp. 211-223, 239-240; Ex. 25, NPD Crime Scene Rpt., p.74).

**RESPONSE:** Undisputed.

**Statement No. 15 reads:** Dirty dishes were in the sink, the left cabinet door under the kitchen sink was open and a plastic garbage can was lying on its side in front of the open cabinet. (Ex. 18, Kennedy Trial Tr., pp. 211-223, 240-241; Ex. 25, NPD Crime Scene Rpt., p. 74; Ex. 20, Freesmeyer GJ Tr., p. 135). A bag of garbage was found on the living room sofa filled with trash, with its contents spilling out. (Ex. 18, Kennedy Trial Tr., pp. 211-223, 240-241; Ex. 25, NPD Crime Scene Rpt., p. 74; Ex. 20, Freesmeyer GJ Tr., pp. 135-36).

**RESPONSE:** Undisputed but incomplete. Both the dishes in the sink and the removal of the kitchen garbage bag suggested that the crime involved a home invasion and included burglary as a motive. Moses Report (Pl. Ex. 9) at 4.

**Statement No. 16 reads:** Two book bags and Lockmiller's purse were found on a table; all three were closed and did not appear to have been disturbed. (Ex. 19, Kennedy Trial Tr., pp. 234-236; Ex. 20, Freesmeyer GJ Tr., p. 137; Ex. 25, NPD Crime Scene Rpt., p. 74). Lockmiller's purse contained her driver's license and other identification, a brown wallet with \$17.71 in cash, various credit cards and other personal effects. (Ex. 18, Kennedy Trial Tr., pp. 234-236; Ex. 20, Freesmeyer GJ Tr., p. 137; Ex. 25, NPD Crime Scene Rpt., p. 74). Officers did not detect any signs that there had been a burglary because items of value were not disturbed on the premises. (Ex. 5, Daniels, pp. 90-91; Ex. 18, Kennedy Trial Tr., pp. 234-236; Ex. 20, Freesmeyer GJ Tr., p. 137). The television was on and the air conditioning unit was running, and both were located in

the living room. (Ex. 18, Kennedy Trial Tr., pp. 215-216; Ex. 25, NPD Crime Scene Rpt., p. 74; Ex. 20, Freesmeyer GJ Tr., pp. 137-38).

**RESPONSE:** Disputed. The crime scene suggested a home invasion in numerous respects, including the fact that the apartment had been rummaged through. Pl. SOF ¶¶ 9-10. While there were not obvious signs of certain items being disturbed, this is consistent with Moses' analysis of the crime scene as a rape that began as a home invasion because "[t]here was nothing in the Lockmiller living room that would be irresistible value-wise to a burglar. Jennifer's purse was on the kitchen table but it was sandwiched between her book bags and not plainly visible." Moses Report (Pl. Ex. 9) at 4.

**Statement No. 17 reads:** NPD detectives learned that Lockmiller's grey Pontiac Sunbird had been parked outside the front door to the building for several days. (Ex. 20, Freesmeyer GJ Tr., p. 138; Ex. 8, Freesmeyer Rpt., p. 189; Ex. 18, Kennedy Trial Tr., pp. 237-238; Ex. 19, Freesmeyer Trial Tr., pp. 798-799).

**RESPONSE:** Undisputed.

**Statement No. 18 reads:** The door to Lockmiller's bedroom was found open. (Ex. 18, Kennedy Trial Tr., pp. 211-218; Ex. 25, NPD Crime Scene Rpt., p. 75). A hole, approximately ten inches in diameter, was found on the south wall of the bedroom. (Ex. 18, Kennedy Trial Tr., pp. 211-218; Ex. 25, NPD Crime Scene Rpt., p. 75). NPD detectives learned that the hole in the bedroom was made by Alan Beaman prior to Lockmiller's murder. (Ex. 24, Swaine 8/28/93 Stmt., p. 6; Ex. 24, Swaine 8/29/93 Stmt., p. 45).

**RESPONSE:** Disputed. While Swaine, who was himself a suspect at the time, stated that Ms. Lockmiller told him that Mr. Beaman made the hole in the bedroom, Defendants' citations do not establish that this was in fact the case.

**Statement No. 19 reads:** The bedroom contained a single bed and a set of bunk beds; Lockmiller's body was found on the floor in-between the beds. (Ex. 18, Kennedy Trial Tr., pp. 211-218, 223-224; Ex. 25, NPD Crime Scene Rpt., p. 75). Lockmiller's body was found in a supine position, with her arms extended straight out from the shoulders, her legs spread apart and bent at the knees, and her feet extended back toward her head. (Ex. 18, Kennedy Trial Tr., pp. 211-218; Ex. 25, NPD Crime Scene Rpt., p. 75; Ex. 20, Freesmeyer GJ Tr., pp. 130-31). Lockmiller's shirt and bra were pushed up, exposing her chest; and her shorts, belt, and underwear were pulled down around her left calf and ankle but there was no physical evidence of rape. (Ex. 18, Kennedy Trial Tr., pp. 211-218; Ex. 25, NPD Crime Scene Rpt., p. 75; Ex. 20, Freesmeyer GJ Tr., p. 130, 156-58). A red shoe, similar to the shoe found in the hallway outside the bedroom door, was on Lockmiller's left foot. (Ex. 18, Kennedy Trial Tr., pp. 211-218, 239-240).

**RESPONSE:** Disputed. There was physical evidence of rape, including the position of the body, the victim's state of undress, and indications of a "blitz like attack" that commenced at the front door with the victim "driven straight back to the bedroom." Moses Report (Pl. Ex. 9) at 3. "The position of the body suggests that the perpetrator stood with his back to the twin bed with the victim on her knees in front of him. He then probably forced her backwards and may have raped her before plunging the scissors into her chest." *Id.* There was no evidence suggesting that these indications of rape had been staged. *Id.* at 4. Indeed, the medical examiner who performed the

autopsy believed that “Jennifer Lockmiller may have been sexually assaulted based on the position of her body and the position of her clothing.” Schnittker Affidavit (Pl. Ex. 77) at 1-3. Plaintiffs’ expert in forensic pathology opines that the murder was a sexually motivated homicide. Spitz Report (Pl. Ex. 76) at 3.

**Statement No. 20 reads:** A pair of scissors with red plastic handles was embedded in the center of Lockmiller’s chest. (Ex. 18, Kennedy Trial Tr., pp. 211-218; Ex. 25, NPD Crime Scene Rpt., p. 75). The autopsy revealed the scissors found in Lockmiller’s chest could have been put there post-mortem or when her heart was barely beating. (Ex. 20, Freesmeyer GJ Tr., pp. 132, 139-40). Multiple other stab wounds were noted in the skin on Lockmiller’s chest, which had apparently been made with the scissors. (NPD Rpt., p. 75).

**RESPONSE:** Disputed as to “multiple other stab wounds.” The limited number of stab wounds indicated that the killing was not particularly emotionally charged and could have been committed by a stranger: “Freesmeyer’s opinion that the stab wounds in the victim’s chest were . . . an expression of emotion and vengeance on the part of the assailant is . . . incorrect . . . Emotionally charged stabbings generally have far greater number of wounds in a frantic pattern.” Moses Report (Pl. Ex. 9) at 4.

**Statement No. 21 reads:** A clock radio was on the floor east of Lockmiller’s head, and the cord from the clock radio was wrapped around Lockmiller’s neck and tied in the front of her neck. (Ex. 18, Kennedy Trial Tr., pp. 211-218, 225-227, 243-244; Ex. 25, NPD Crime Scene Rpt., p. 75; Ex. 20, Freesmeyer GJ Tr., p. 129).

**RESPONSE:** Undisputed.

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**Statement No. 22 reads:** A box fan was resting on the scissors in Lockmiller's chest, covering her face. (Ex. 18, Kennedy Trial Tr., pp. 211-218; Ex. 25, NPD Crime Scene Rpt., p. 75; Ex. 20, Freesmeyer GJ Tr., p. 129).

**RESPONSE:** Undisputed.

**Statement No. 23 reads:** Several letters were located under Lockmiller's bed and placed into evidence. (Ex. 19, Freesmeyer Trial Tr., p. 804; Ex. 25, NPD Crime Scene Rpt., p. 75; Ex. 8, Freesmeyer Rpt., p. 7-11).

**RESPONSE:** Undisputed.

**Statement No. 24 reads:** Although the apartment was processed for latent finger and palm print impressions, no identifiable latent prints were developed. (Ex. 18, Kennedy Trial Tr., pp. 246-250; Ex. 25, NPD Crime Scene Rpt., p. 75). Two of Alan Beaman's fingerprints were later identified on the clock used to strangle Lockmiller by the Morton Crime Laboratory. (Ex. 18, Kennedy Trial Tr., p. 236; Ex. 25, NPD Crime Scene Rpt., pp. 94-96; Ex. 20, Freesmeyer GJ Tr., pp. 162-63). One of Beaman's fingerprints was identified on the back of the Lockmiller clock near the cord and another on the bottom of the clock. (Ex. 20, Freesmeyer GJ Tr., pp. 275-277).

**RESPONSE:** Disputed. Defendants do not cite any support for the claim that one of Mr. Beaman's fingerprints was found near the cord, other than Freesmeyer's own self-serving testimony before the grand jury, a proceeding in which he committed perjury in other respects. Pl. SOF ¶¶ 173-74.

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The alarm clock revealed seven latent prints—two of which were Mr. Beaman’s, four of which were Michael Swaine’s, and a remaining unidentified print. Dierker Trial Trans. (Pl. Ex. 56) at 503-504. No latent prints were found on Ms. Lockmiller’s belt, her lighter, the scissors, or the electrical cord of the alarm clock with which Lockmiller was strangled. *Id.* at 492-95.

Mr. Beaman had previously spent the night at Ms. Lockmiller’s apartment and used the clock while at her home. Pl. Dep. (Pl. Ex. 2) at 501-02; Souk Grand Jury Trans. (Pl. Ex. 4) at 277-78. This provided, as Mr. Souk agreed, “a reasonable alternate explanation for the fingerprints” because there was no scientific evidence to suggest that Mr. Beaman’s fingerprints were left on the clock radio at the time of the murder. Souk Dep. (Pl. Ex. 47) at 284, 125; *see also* Daniels Dep. (Pl. Ex. 26) at 522-23; *People v. Beaman*, 229 Ill. 2d at 78 (stating that the “fingerprints on the clock radio . . . were explained by [Mr. Beaman’s] relationship with Jennifer”).

Moreover, Kennedy, the crime scene technician, did not process Ms. Lockmiller’s entire apartment for fingerprints. Instead, Kennedy collected a set of items from the crime scene suspected to have evidentiary value, and transported them to the Morton Crime Lab for further fingerprint testing. Kennedy Trial Trans. (Pl. Ex. 79) at 236, 238-46. Dierker, the ISP fingerprint specialist, conducted a more in-depth analysis of the items collected by Kennedy, which included the clock radio (the cord from which was used to strangle Lockmiller), the scissors found stabbed in her abdomen, a pink lighter belonging to Ms. Lockmiller, her belt and shoes, the garbage bag from Ms. Lockmiller’s bathroom, the garbage bag found on the sofa in her living room, and the garbage can found overturned in her kitchen. Dierker Report Jan. 4, 1994 (Pl. Ex. 64); Dierker Report Jan. 23, 1995 (Pl. Ex. 80). Dierker discovered that Michael Swaine’s prints were on the garbage can in the kitchen. Dierker Trial Trans. (Pl. Ex. 56) at 499. Ms. Lockmiller’s prints were

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discovered on the garbage bag in the bathroom, as were a Normal detective's prints and four unidentified prints. *Id.* at 499-501. Ms. Lockmiller's prints, along with two additional prints that were not identified, were also found on the garbage bag on the sofa in the living room. *Id.* at 501-02. There were no prints found on one of Ms. Lockmiller's shoes, though a set of Kennedy's own prints were discovered on the other shoe. *Id.* at 493, 502-03.

Dierker identified a total of three to four different items at the crime scene that contained unidentified prints. Neither Freesmeyer nor any other detective on the case ran the unidentified prints through a federal, state, or local automated fingerprint indexing system (AFIS). Freesmeyer Trial Trans. (Pl. Ex. 50) at 993. The investigators also failed to dust the dishes left out on the counter, which a burglar-killer may have used to prepare a snack, for fingerprints. Moses Report (Pl. Ex. 9) at 4.

**Statement No. 25 reads:** The cause of death was determined to be ligature strangulation. (Ex. 25, NPD Crime Scene Rpt., pp.104-110.) The post-mortem examination of Lockmiller found no defensive wounds on her body. (Ex. 20, Freesmeyer GJ Tr., p. 140).

**RESPONSE:** Disputed. Freesmeyer testified that skin was found under the victim's nails "which correlated to the neck area where she might have been grasping for the cord." Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 140.

**Statement No. 26 reads:** NPD detectives believed the murder was a crime of passion, involving an act of vengeance. (Ex. 5, Daniels, pp. 90-92; Ex. 1, Freesmeyer, p. 205). NPD detectives concluded that Lockmiller knew her killer. (Ex. 3, Warner, pp. 59-60; Ex. 1, Freesmeyer, pp. 197, 203-205, 211-212).

**RESPONSE:** Disputed. While Freesmeyer claims to have held the idiosyncratic view that the murder was a crime of passion committed by an acquaintance, the crime scene was far more suggestive of home invasion and rape: “Many rapes are merely crimes of opportunity where the burglar unexpectedly finds the victim at home. My overall impression of the murder of Jennifer Lockmiller is that it fits this type of crime . . .” Moses Report (Pl. Ex. 9) at 2. There were obvious signs that the apartment had been rummaged through.

Nor did other investigators agree with Freesmeyer’s hypothesis that the murderer knew the victim. Defendant Frank Zayas, the head of the Normal Police Department Criminal Investigation Division, testified that the Lockmiller murder could have been committed by a large universe of potential suspects: “In a college town, I mean, there’s so many possibilities.” Zayas Dep. (Pl. Ex. 8) at 90. Zayas elaborated as follows:

The transient nature of the campus. The activities during the day and night, you know. A lot of parties. Kids are always out, all hours of the night and day. The crime scene is on – right on a main thoroughfare, Route 51 . . . [I]t was kind of like an open case. We – we had no idea where to go.

....

Q. So there were a lot of different factors that pointed to a potentially broad range of suspects, right?

A. Yes, sir, it did.

*Id.* at 90-93.

**Statement No. 27 reads:** On the day Lockmiller’s body was discovered, a meeting was held in the NPD with NPD Police Chief James Taylor, several CID detectives, Souk, and McLean County Coroner Dan Brady to discuss the case. (Ex. 1, Freesmeyer, p. 72). The group discovered

that Beaman was in Rockford where he lived, and Tony Daniels and Hospelhorn were assigned to go to Rockford to interview Beaman that night. (Ex. 2, Hospelhorn, pp. 44-45).

**RESPONSE:** Disputed. “[A]ll detectives in this case” attended the meeting, which would include Defendants Freesmeyer, Warner, and Zayas. Freesmeyer Police Reports (Pl. Ex. 7) at 11.

**Statement No. 28 reads:** Daniels and Hospelhorn were able to conduct a short interview of Beaman in Rockford on the night of August 28, 1993, which Beaman terminated abruptly. (Ex. 5, Daniels, p. 115, 124-25, 30). Daniels and Hospelhorn came away from the Beaman interview believing Beaman’s conduct was highly suspicious. They were particularly interested that while Beaman was questioned about his relationship with Lockmiller, he never asked if something had happened to her. (Ex. 5, Daniels, p. 129). Daniels and Hospelhorn returned to Rockford the following day to attempt to talk to Beaman again, but were told Beaman was represented by counsel and would not talk to the detectives. (Ex. 5, Daniels, p. 143-44).

**RESPONSE:** Disputed. Daniels and Hospelhorn subjected Mr. Beaman to an interrogation, not a mere witness interview. Daniels testified that in his interactions with Mr. Beaman, he moved quickly to the “finger-pointing stage” and employed “trickery” as an “interrogation technique,” telling Mr. Beaman that Ms. Lockmiller “really wasn’t dead, that [she] was in the hospital and that [she] had asked for [Mr. Beaman].” Daniels Dep. (Pl. Ex. 26) at 126-27, 131-32. Mr. Beaman testified that throughout the interrogation he felt “very intimidated . . . and confused” because of “the shocking experience of being put in handcuffs, taken to the police station and questioned and intimidated by the person questioning me.” Pl. Dep. (Pl. Ex. 2) at 179-180.

This statement is also disputed as to the Defendants’ description of the interrogation as “short.” Mr. Beaman was first detained by officers with the Winnebago County Sheriff’s

Department shortly after 10:20 p.m., and transported to the Sheriff's Department in Rockford. Daniels Police Reports (Pl. Ex. 94) at 1-2. The actual interrogation lasted over an hour, from 11:02 p.m. on August 28th to 12:10 a.m. on August 29th. *Id.* at 2. Consequently, Mr. Beaman was in police custody for a total of almost two hours.

Hospelhorn also testified to the opposite of what the Defendants' claim he took away from the Beaman interview—he did not think Mr. Beaman's actions were "highly suspicious."

Q. As a result of your interview with Beaman on August 28, the one you did with Daniels, did you and/or Daniels form any suspicion as to whether Beaman might be guilty of murdering Jennifer Lockmiller?

MR. DiCIANNI: I'll object to foundation as to Daniels.

THE WITNESS: No.

Q. (By Mr. Bowman) No suspicions at all?

A. No.

Q. Okay. So it would be fair to say that to the best of your recollection, there was nothing that Beaman did in the course of that interview that aroused suspicion in any way. Is that a fair statement?

MS. BARTON: Objection.

MR. DiCIANNI: To him?

Q. (By Mr. Bowman) To you.

A. Again, it was hard to base any type of thing with the limited amount of information we had at that time. I would say no at that time.

Q. Right, because you basically had no information at that stage of the investigation other than the fact that Beaman's name had come up and Lockmiller was dead, fair summary?

A. At that time?

Q. Right.

A. Correct.

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- Q. Okay. Was there anything in Beaman's demeanor during the interview on August 28 that aroused your suspicions?
- A. I don't remember.
- Q. Is there anything about Beaman's responses to questions, the way he answered questions that aroused any suspicions from you on August 28 when you spoke with him?
- A. I don't remember.
- Q. Is there anything that you can point to about Beaman's demeanor that aroused suspicions?
- A. No.

Hospelhorn Dep. (Pl. Ex. 31) at 77-79.

Additionally, the claim that Daniels and Hospelhorn found Mr. Beaman's conduct to be "highly suspicious" is not supported by the Defendants' citation. This statement is also disputed in that it implies that Mr. Beaman was not concerned about Ms. Lockmiller's welfare during and after the police interrogation. After the police interrogation, Mr. Beaman was "shaken up," and he wanted to call down to Normal "to find out what happened to Jen." Freesmeyer Police Reports (Pl. Ex. 7) at 21-22; *see also* Pl. Resp. to Def. SOF ¶ 20.

Finally, the Defendants' claim that Beaman would not talk to detectives is incomplete. On August 29, 1993, the day after the interrogation, Daniels and Hospelhorn returned to Rockford and went to Mr. Beaman's home. Mr. Beaman's parents, Carol and Barry Beaman, invited Hospelhorn and Daniels into the house, but informed the detectives that they had just contacted an attorney, a family friend named Tom Laughlin, who had instructed them not to allow Mr. Beaman to speak to anyone. Daniels Dep. (Pl. Ex. 26) at 143-44; Carol Beaman Dep. (Pl. Ex. 3) at 261-62. Daniels and Hospelhorn remained at the Beaman's home until Laughlin arrived and confirmed that the detectives were not to speak to Mr. Beaman. *Id.* at 264. Daniels

and Hospelhorn told the Beamans that they would be in touch the following week, after Mr. Beaman had hired a criminal defense attorney. *Id.* at 264-65. However, Hospelhorn and Daniels did not contact the Beamans at any point during the investigation. *Id.* at 265. Furthermore, Mr. Beaman voluntarily spoke with Freesemeyer and another investigator, John Brown, on multiple occasions. Pl. SOF ¶¶ 68, 110-111.

**Statement No. 29 reads:** Throughout the first six weeks after the murder, every detective in CID worked on the investigation. Dozens of friends, neighbors, boyfriends, relatives and acquaintances were interviewed. (Ex. 3, Warner, pp. 66-68). Zayas, as the head of CID, assigned various parts of the investigation to the detectives. (Ex. 4, Zayas, p. 69). Each detective then worked on various facets of the cases. (Ex. 1, Freesmeyer, p. 37).

**RESPONSE:** Undisputed but incomplete. Zayas, as the head of CID, supervised the investigators working on the Lockmiller case, while Freesmeyer served as the lead detective on the homicide investigation, which meant that he had more responsibility for the case, made “more of the decisions about the direction of the case,” and would incur most of the blame if the case were not solved. Brown Dep. (Pl. Ex. 14) at 109-14; *see also* Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 10, 12, 21, 88, 90; Souk Post-Conviction Dep. (Pl. Ex. 57) at 12; Pl. SOF ¶¶ 94-96.

**Statement No. 30 reads:** The detectives in CID had periodic meetings to discuss the investigation. (Ex. 1, Freesmeyer, pp. 36-37). At times Souk or other attorneys from the State’s Attorney’s Office attended as well. (Ex. 6, Souk, p. 224).

**RESPONSE:** Undisputed.

**Statement No. 31 reads:** Early in the investigation Freesmeyer focused on investigating Mike Swaine, who appeared at Lockmiller's apartment while Freesmeyer was at the crime scene. (Ex. 1, Freesmeyer p. 73). Swaine was Beaman's roommate, and had begun dating Lockmiller. After Swaine's alibi checked out and he passed a polygraph, Freesmeyer worked with Swaine to obtain recorded conversations with Beaman. (Ex. 1, Freesmeyer, pp. 220, 192-93; Ex. 8, Freesmeyer Report, pp. 19, 24).

**RESPONSE:** Undisputed but incomplete. The Defendants, particularly Defendant Freesmeyer, quickly ruled out Swaine as a suspect, only four days after Ms. Lockmiller's body was discovered. Freesmeyer Police Reports (Pl. Ex. 7) at 19; Freesmeyer Trial Trans. (Pl. Ex. 50) at 821-22. After ruling him out, Freesmeyer "gave [Swaine] several reasons why [the detectives] felt that Alan Beaman was a strong suspect in the homicide of Jennifer Lockmiller." Freesmeyer Police Reports (Pl. Ex. 7) at 19. Freesmeyer then asked Swaine to cooperate in a series of overhears with Mr. Beaman and talked "in detail" with Swaine about what he should discuss with Mr. Beaman during these overhears. *Id.* at 19-24; Pl. SOF ¶ 109.

**Statement No. 32 reads:** Morgan Keefe (Hartman) was Lockmiller's best friend. (Ex. 21, Keefe (Hartman), p. 26; Ex. 20, Freesmeyer GJ Tr., pp. 127, 142). Immediately after discovering Lockmiller's body, Keefe called 911 and told the dispatcher that "I know who did it ... [Lockmiller] had this psycho ex-boyfriend that she broke up with. His name's Alan, he went to Wesleyan and I only met him once and he was psycho and he used to harass her all the time and he used to break down her door." (Ex. 7, Keefe Stmt.; Ex. 21, Keefe (Hartman), p. 27; Ex. 21; Ex. 26, 911 Transcript).

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**RESPONSE:** Disputed. Keefe testified in her deposition that she was “guessing” when she told the police Mr. Beaman might be the killer, and she “didn’t expect that the guesses [she] expressed to the police would carry a lot of weight.” Hartman Evidence Dep. (Pl. Ex. 11) 15-16. When Keefe made these statements, she had just discovered the body and was calling 911 in a panicked state—she was “extremely shaken and distraught.” *Id.* at 14. Keefe did not know Mr. Beaman at all well, had met him only once or twice, did not consider him violent, and was not personally afraid of him. *Id.* at 15-16.

Keefe also informed police about various potential suspects, including the unknown men with whom Ms. Lockmiller had flirted in the days before her death. *See* Pl. SOF ¶¶ 13-15. Keefe also told the police that Stacy Gates was a former boyfriend of the victim, that Gates was romantically attached to her, that she did not requite his feelings, that the two had plans to meet in the near future, and that Lockmiller’s attitude toward Gates was “flippant.” Hartman Evidence Dep. (Pl. Ex. 11) at 19-20.

This statement is also disputed as to the characterization of Ms. Keefe as Ms. Lockmiller’s “best friend.” During an interview, Detective Warner asked Keefe: “Do you know someone that would uh, she would talk to more often than you that maybe we could talk to, maybe a closer friend? Is there anybody.” Keefe Stmt. Aug. 28, 1993 (Pl. Ex. 19) a 6. Keefe responded by giving the name of a different friend of the victim. *Id.*

**Statement No. 33 reads:** On August 28, 1993, shortly after Keefe discovered Lockmiller’s body, Detective Warner interviewed Keefe at NPD. (Ex. 7, Keefe Stmt.). Keefe provided the following information to Detective Warner:

**RESPONSE:** The items in Defendants’ Statement 33 are addressed individually below:

(a) She and Lockmiller went to a movie on Tuesday night before Lockmiller was found; they left the theater around midnight and that was the last time Keefe saw or spoke with Lockmiller. (Ex. 7, Keefe Stmt., p. 1-2.)

**RESPONSE:** Undisputed.

(b) Lockmiller was dating Alan Beaman. (Ex. 7, Keefe Stmt., p. 3.)

**RESPONSE:** Disputed. Keefe informed Warner that Ms. Lockmiller and Mr. Beaman *used to date*. Keefe Stmt. Aug. 28, 1993 (Pl. Ex. 19) at 3.

(c) Lockmiller didn't like Beaman very much and when Lockmiller tried to stay away from Beaman, he would threaten suicide. (Ex. 7, Keefe Stmt., p. 3; Ex. 21, Keefe (Hartman), pp. 18-19).

**REPOSENSE:** These statements referred to the period during which Mr. Beaman and Ms. Lockmiller had been dating. Keefe Statement (Def. Ex. 7) at 3.

(d) Beaman broke down the door to Lockmiller's apartment a couple of times and Lockmiller's landlord fixed the lock. (Ex. 7, Keefe Stmt., p. 3).

**REPOSENSE:** Undisputed that Keefe made these statements and that Mr. Beaman forced open the door on two occasions by kicking it, but Defendants' characterization of the circumstances is incomplete. *See* Pl. SOF ¶ 65.

(e) One night Keefe arrived at Lockmiller's apartment and there was a chair and a big beam against the front door. When she opened the door, Lockmiller started screaming

and Keefe told her, "Jen, it's me. It's ok," and Lockmiller said, "Oh, well, Alan [Beaman] broke down the door awhile ago." (Ex. 7, Keefe Stmt., p. 3; Ex. 21, Keefe (Hartman), pps. 25-26). Keefe described Lockmiller as scared of Beaman. (Ex. 21, Keefe (Hartman), p. 26).

**RESPONSE:** Undisputed that Keefe made statements of this nature, but she was, by her own admission, merely "guessing" as to Mr. Beaman's guilt, was not afraid of him, and did not consider him physically violent. *See* Pl. Resp. to Def. SOF ¶ 32.

(f) Lockmiller told Keefe that she was looking forward to Beaman going home over the summer, so that she could finally spend time with Swaine. (Ex. 7, Keefe Stmt., p. 4.)

**RESPONSE:** Disputed. Keefe prefaced this statement by saying "I really don't know the story, so, this is hearsay. This isn't true, maybe not." Keefe Stmt. Aug. 28, 1993 (Pl. Ex. 19) at 4.

(g) Beaman moved home on August 4, 1993 and Swaine moved into Lockmiller's apartment with her around August 15 because he didn't have a place to live. (Ex. 7, Keefe Stmt., pp. 4-5.)

**RESPONSE:** Disputed. Keefe did not give precise dates and prefaced this statement by saying "I really don't know the story, so, this is hearsay. This isn't true, maybe not." Keefe Stmt. Aug. 28, 1993 (Pl. Ex. 19) at 4.

(h) Lockmiller told Keefe on August 24 that she recently had sex with Swaine. (Ex. 7, Keefe Stmt., p. 6.)

**RESPONSE:** Undisputed that Keefe made this statement.

(i) Keefe had been trying to contact Lockmiller since Wednesday around 3:30 p.m. (Ex. 7, Keefe Stmt., p. 12.)

**RESPONSE:** Undisputed that Keefe made this statement.

(j) Keefe found the door to Lockmiller's apartment unlocked when she arrived and discovered Lockmiller's body. (Ex. 7, Keefe Stmt., p. 15.)

**RESPONSE:** Undisputed.

**Statement No. 34 reads:** Keefe knew Lockmiller was afraid of Beaman. Lockmiller told Keefe "over and over again" that she was afraid of Beaman. (Ex. 21, Keefe (Hartman), pp. 18, 30). Keefe knew Beaman was possessive, verbally aggressive, and that he would call Lockmiller's apartment repeatedly in a harassing manner. (Ex. 21, Keefe (Hartman), pp. 18-19, 25).

**RESPONSE:** Disputed. Keefe was not afraid of Mr. Beaman and did not consider him violent. Hartman Evidence Dep. (Pl. Ex.11) at 15.

**Statement No. 35 reads:** Liza Everett and Lori Solomon, who lived directly below Lockmiller in apartment No. 2, told NPD detectives they overheard fights between Lockmiller and a man who drove a silver Ford Escort. (Ex. 8, Freesmeyer Rpt., p. 2). Beaman drove a silver/grey Ford Escort. (Ex. 19, Freesmeyer Trial Tr., p. 824).

**RESPONSE:** Disputed. The only source Defendants cite for the claim that these neighbors overheard arguments between Mr. Beaman and Ms. Lockmiller is Freesmeyer's own report.

There is no transcript or recording of Freesmeyer's interview with Everett and Solomon, and Freesmeyer did not provide his notes to the States Attorney's Office and destroyed them. Freesmeyer Dep. (Pl. Ex. 16) at 182. Statements made by Freesmeyer in his report are of dubious credibility because he omitted exculpatory evidence from his report and lied to the grand jury. Pl. SOF ¶¶ 173-74; 150-52. When other investigators interviewed Everett (and actually recorded the interview), she did not mention any arguments between Mr. Beam and Ms. Lockmiller. Everett Stmt. (Pl. Ex. 85).

**Statement No. 36 reads:** David Singley, who lived directly across the hall from Lockmiller told NPD detectives that approximately a month before Lockmiller's murder he overheard an early morning argument between Lockmiller and Beaman, during which Beaman tried to break into Lockmiller's apartment three to four times by kicking it and throwing himself against her apartment door. (Ex. 8, Freesmeyer Rpt., p. 3). Singley also told NPD detectives that on that morning when Beaman could not gain access to Lockmiller's apartment, Beaman ran around the apartment parking lot yelling "slut," returning to her apartment a short time later to yell something like "I see your cherry stain on the bed" and "you slept with him but you wouldn't sleep with me;" and "the only reason you dated me was to go to bed with my friend." (Ex. 8, Freesmeyer Rpt., p. 3).

**RESPONSE:** Disputed. The only source Defendants cite for the claim that Singley made these statements is Freesmeyer's own report, and even that does not contain any mention of Singley claiming that Mr. Beaman called Ms. Lockmiller a "slut." Freesmeyer Report (Def. Ex. 8) at 3. There is no transcript or recording of Freesmeyer's interview with Singley, and Freesmeyer did not provide his notes to the States Attorney's Office and destroyed them. Freesmeyer Dep. (Pl.

Ex. 16) at 182. Defendants' also omit from their account the time of death evidence provided by Singley, which eliminated Mr. Beaman's opportunity to commit the murder. *See* Pl. SOF ¶¶ 165-74.

While it is not disputed that Mr. Beaman forced the door open by kicking it on two occasions during the period that the two had been dating, on those occasions Ms. Lockmiller was having sex or about to have sex with other men, and Mr. Beaman, upon entering the apartment, did not do anything violent to Ms. Lockmiller or anyone else. *See* Pl. SOF ¶ 65.

**Statement No. 37 reads:** Susan Jenkins, who lived with David Singley, described this same incident to NPD, telling detectives that Beaman seemed so "absolutely crazed" that she was afraid to call the police because she thought that if she did Beaman would beat Lockmiller as a result. (Ex.8, Freesmeyer Rpt., p. 3).

**RESPONSE:** Disputed. The only source Defendants cite for the claim that Jenkins made these statements is Freesmeyer's own report, and even that does not support their assertion. Freesmeyer Report (Def. Ex. 8) at 3. There is no transcript or recording of Freesmeyer's interview with Jenkins and Freesmeyer did not provide his notes to the States Attorney's Office and destroyed them. Freesmeyer Dep. (Pl. Ex. 16) at 182. Statements made by Freesmeyer in his report are of dubious credibility because he omitted exculpatory evidence from his report and lied to the grand jury. *See* Pl. SOF ¶¶ 173-74.

**Statement No. 38 reads:** Dan Brady, the McLean County Coroner, opined that Lockmiller's body was in her apartment for 2-4 days before she was discovered. (Ex. 25, NPD Crime Scene Rpt., p. 120; Ex. 20, Freesmeyer GJ Tr., pp. 141-142, 157). The coroner estimated the time of

death being between 9:00 a.m. on August 25, 1993 and 9:00 a.m. on August 27, 1993. (Ex. 36, Coroner's Rpt., pp. 332-333).

**RESPONSE:** Undisputed.

**Statement No. 39 reads:** Claudine Moss told NPD detectives she spoke to Lockmiller at 8:00 a.m. on August 25, 1993 about a kitten Lockmiller was advertising for sale. (Ex. 20, Freesmeyer GJ Tr., pp. 145-47; Ex. 16, Lockmiller's Telephone Records). Moss told NPD detectives she and her husband went to Lockmiller's apartment to look at the cat around 4:20 p.m. on August 25, 1993, but Lockmiller did not answer her door. (Ex. 20, Freesmeyer GJ Tr., pp. 145-47).

**RESPONSE:** Undisputed.

**Statement No. 40 reads:** NPD detectives obtained Lockmiller's class schedule for August 25, 1993 and learned that she had four classes on that date: (a) 9:00-9:50 a.m.; (b) 10:00-10:50 a.m.; (c) 11:00-11:50; and (d) 2:00-2:50 p.m. (Ex. 20, Freesmeyer GJ Tr., pp. 144-45). NPD detectives learned that Lockmiller attended her first three classes, but did not attend her fourth class, which began at 2:00 p.m. (Ex. 8, Freesmeyer Rpt., p. 441; Ex. 20, Freesmeyer GJ Tr., pp. 144- 45, 261). They learned that Lockmiller failed to attend a meeting at the Vidette Newspaper, where she worked, at 8:00 p.m. on August 25. (Ex. 20, Freesmeyer GJ Tr., pp. 144-45).

**RESPONSE:** Undisputed.

**Statement No. 41 reads:** NPD detectives were unable to find any person who saw Lockmiller alive after her 11:00-11:50 a.m. class on August 25, 1993. (Ex. 20, Freesmeyer GJ Tr., p. 147).

**RESPONSE:** Disputed. Ryan Campbell stated that he might have seen Ms. Lockmiller at 1:30 p.m. on Wednesday, August 25. Hospelhorn Police Reports (Pl. Ex. 54) at 13 (“Campbell stated that he believes he saw Jennifer on Wednesday 08-25-93 at approx 1330 hrs but stated it could have been Tuesday.”). Moreover, David Singley’s observations about the noises he heard coming from Ms. Lockmiller’s apartment made it clear that the killer was present until at least 2 p.m. on Wednesday, August 25, a fact that eliminated any opportunity for Mr. Beaman to have committed the crime. *See* Pl. SOF ¶¶ 165-72.

**Statement No. 42 reads:** On October 12, 1993, Alan Beaman was interviewed by Detective Freesmeyer at the NPD. (Ex. 8, Freesmeyer Rpt., pp. 215-217). During the interview Beaman stated that on August 25, he arrived home from work between 9:00-10:00 a.m. and was there alone, sleeping until his parents woke him up at 3:30-4:00 p.m. when they got home. (Ex. 8, Freesmeyer Rpt., pp. 216-217, 221; Ex. 20, Freesmeyer GJ Tr., pp. 204-05, 228-229).

**RESPONSE:** Undisputed, but these times were an approximation. It was established that Mr. Beaman was at his parents’ home in Rockford at 10:39 a.m. and 2:15 p.m., which made it impossible for him to have committed the murder. Pl. SOF ¶ 67.

**Statement No. 43 reads:** Beaman’s supervisor, Dennis Clark, confirmed to NPD detectives that Beaman got off work on August 25 at 9:00 a.m. (Ex. 20, Freesmeyer GJ Tr., pp. 152-53).

**RESPONSE:** Undisputed.

**Statement No. 44 reads:** On October 11, 1993, the day before Freesmeyer’s interview of Beaman, NPD detectives learned that Beaman made a deposit at Bell Federal Savings and Loan

Bank, located at 1466 S. Alpine Road, Rockford, at approximately 10:11 a.m. on August 25. (Ex. 8, Freesmeyer Rpt., p. 214; Ex. 20, Freesmeyer GJ Tr., pp. 154-56).

**RESPONSE:** Disputed. Freesmeyer learned about the 10:11 a.m. bank deposit on September 24. Freesmeyer Police Reports (Def. Ex. 8) at 26.

**Statement No. 45 reads:** Based on the distance between Rockford and Bloomington, NPD detectives believed it was possible for Beaman to have left Bell Federal, traveled to Bloomington to commit the murder and return to Rockford by 3:00 p.m. (Ex. 20, Freesmeyer GJ Tr., pp. 233-239; Ex. 1, Freesmeyer Dep., pp. 213-289).

**RESPONSE:** Disputed. It was established that Mr. Beaman was at his parents' home in Rockford at 10:39 a.m. and 2:15 p.m., which made it impossible for him to have committed the murder. Pl. SOF ¶ 67.

**Statement No. 46 reads:** The detectives discovered that Beaman and Lockmiller had broken off their stormy relationship about one month before her murder. During their two-year relationship, Beaman and Lockmiller broke up and reunited about 18 times. They had many loud arguments, witnessed by their friends and neighbors, one of which resulted in Beaman drinking a bottle of nail polish remover and the police being called. (Ex. 1, Freesmeyer, pp. 193, 209; Ex. 6, Souk, p. 446; Ex. 20, Freesmeyer GJ Tr., p. 249).

**RESPONSE:** The alleged fact that "friends and neighbors" witnessed "loud arguments" between Ms. Lockmiller and Mr. Beaman is not supported by the Defendants' citations. This statement is also disputed as to the characterization of the nail polish incident. Mr. Beaman drank a small amount of nail polish remover – not a "bottle" – in December 1992; Mr. Beaman stated

that he and Ms. Lockmiller were having “an argument [] about [another girl] and I was attempting to escape the—the argument. And I did a stupid thing, I drank the nail polish remover, got sick, and that’s that.” Pl. Dep. (Pl. Ex. 2) at 24. Ms. Lockmiller thereafter took Mr. Beaman to the hospital out of concern for Mr. Beaman’s health. *Id.* at 25-27.

This statement is also disputed as to the description of Mr. Beaman and Ms. Lockmiller’s break-up. *See* Pl. SOF ¶¶ 62-63.

**Statement No. 47 reads:** In the course of the investigation, Freesmeyer reviewed the undated letters recovered from under Lockmiller’s bed. (Ex. 8, Freesmeyer Rpt., pp. 7-11). The letters were written to Lockmiller by Beaman and contained among others, the following statements (Ex. 19, Freesmeyer Trial Tr., pp. 804-805; Ex. 8, Freesmeyer Rpt., pp. 7-11):

(a) I love you more passionately than Romeo did Juliet, more hopelessly than Ophelia did Hamlet, more vengefully than Medea, Jason. Don’t worry, I won’t kill anybody, I don’t believe in that. I do unto others as I would have them untome (from now on).

(b) I really just want you to be with me and only me.

(c) I’m sorry that I’ve been such an ass lately. It seems like every time I don’t get my way I freak out and do something stupid. I know that it’s a problem, and I’m really trying to mellow out about things like that, but it’s hard for me because I always expect to get the run-around. Needless to say this whole Bubba thing has got me freaked out more than you could possibly imagine. With the most confusing and passionate love ever imaginable in anyone’s wildest dreams.

(d) I can't bear any longer to stare into your eyes to see the barrage of countless past lovers of your life. I cannot look at you, if I cannot touch you. (Ex. 8, Freesmeyer Rpt., pp. 7-10).

**RESPONSE:** Disputed. It is misleading to characterize the letters as "undated" because dates for many of them are established. The majority of Mr. Beaman's letters to Ms. Lockmiller were written in the summer of 1992, when he first began dating Ms. Lockmiller and over a year before her murder. Pl. Dep. (Pl. Ex. 2) at 200. As for the specific letters Defendants quote:

Letter referenced subparagraph (a)—August 1992. Beaman Dep. (Pl. Ex. 2) at 208-15.

Letter referenced in subparagraph (b)—Defendants have not established a timeframe. *Id.* at 232-33.

Letter referenced in subparagraph (c)—Defendants have not established a timeframe. *Id.* at 230-32.

Letter referenced in subparagraph (d)—August 1992. *Id.* at 221-22.

Illinois State Police crime scene technician, Dean Kennedy, located many letters under Ms. Lockmiller's bed from numerous people, including from Stacey ("Bubba") Gates, John Murray, Morgan Keefe, Dean Cauley, Heidi Steinman, and Mr. Beaman, as well as letters that Ms. Lockmiller had written to other people, including to Kris Perry, Michael Swaine, and Bubba Gates. Freesmeyer Police Reports (Pl. Ex. 7) at 7; Lockmiller Letters (Pl. Ex. 83).

**Statement No. 48 reads:** In June, 1993, Beaman broke in the door of Lockmiller's apartment because she was hosting her friend and sometimes lover, Larbi John Murray ("Murray"). (Ex. 6,

Souk, p. 386; Ex. 10, Murray September 2, 1993 Interview Transcript). Todd Barth, Lockmiller's friend, told NPD detectives that around 3 a.m. on July 5 or 6, 2015, Lockmiller called him because Beaman was trying to break in and they had to move a dresser in front of the door. (Ex. 37, Barth Stmt., pp. 1, 9-100.

**RESPONSE:** Disputed. Defendants' characterization of this incident is incomplete. *See* Pl. SOF ¶ 65. Additionally, the portion about the dresser was fourth-hand—Ms. Lockmiller allegedly told Swaine, who told Barth, who told an investigator. Barth Statement (Def. Ex. 38) at 10.

**Statement No. 49 reads:** On July 25, 1993, Beaman suspected that Lockmiller was seeing and possibly sleeping with Beaman's roommate, Michael Swaine, and again knocked down Lockmiller's apartment door. (Ex. 1, Freesmeyer, p. 257). Swaine asked Beaman around 2:00 a.m. that night to borrow his car to go to a party. Thinking Swaine was lying, Beaman followed Swaine on his bicycle to Lockmiller's apartment because he "wanted to watch them." (Ex. 36, Pl. Stmt., p 19; Ex. 24, Swaine 8/28/93 Stmt., p. 10). Beaman banged on the door yelling, "I knew it! I know you are in there!" (Ex.24, Swaine Stmt., pp. 16-18). Beaman kicked in the door and looked for Swaine, who was hiding in the closet. (Ex. 35, Beaman Stmt., p. 19; Ex. 24, Swaine 8/28/93 Stmt.; Ex. 24, Swaine 8/29/93 Stmt).

**RESPONSE:** Disputed. Defendants' claim that Mr. Beaman went to Ms. Lockmiller's because he "wanted to watch them" is a quote that the Defendants simply made up, and there is no support for it whatsoever. Furthermore, this description of the incident is incomplete in many respects, including omission of the fact that Swaine had received oral sex from Ms. Lockmiller, who was dating Mr. Beaman, that evening and was heading into Ms. Lockmiller's bedroom

while kissing her when Mr. Beaman arrived, the fact that Mr. Beaman did nothing physically violent to any person, the fact that Swaine did not feel at all afraid of Mr. Beaman that evening, and the fact that Mr. Beaman quickly calmed down—indeed, he gave Swaine a ride home. Pl. SOF ¶ 65.

**Statement No. 50 reads:** On another occasion, Beaman pushed his way into Lockmiller's apartment and rummaged through Lockmiller's trash looking for Swaine's used condoms as evidence. (Ex.1, Freesmeyer, pp. 195, 201).

**RESPONSE:** The alleged fact that Mr. Beaman went through Ms. Lockmiller's trash is not supported by the Defendants' citation.

**Statement No. 51 reads:** Hospelhorn interviewed Kris Perry, a friend of Lockmiller and Beaman. Perry told Hospelhorn that Lockmiller told Perry that Beaman once said he would kill Lockmiller then kill himself. (Ex. 2, Hospelhorn, p. 109). When Hospelhorn interviewed Perry again on another day, Perry changed his report to take out that Beaman said he would kill Lockmiller, and changed his statement to say that Beaman only said he would kill himself. (Ex. 2, Hospelhorn p. 110-11).

**RESPONSE:** Contrary to what is contained in Hospelhorn's report, *see* Hospelhorn Report (Pl. Ex. 54) at 8, there is no transcript in the Common Law Record indicating that Perry told detectives that Ms. Lockmiller told him that Mr. Beaman said he was going to commit homicide. According to the only recorded statement from Perry that is in the record, Perry told Hospelhorn that Mr. Beaman never said he would kill Ms. Lockmiller. Perry Stmt. (Pl. Ex. 87) at 7. When confronted with Perry's alleged "first" statement during an overhear conversation with Swaine,

Mr. Beaman stated unequivocally that he “never said that.” In-Person Overhear Sept. 8, 1993 (Pl. Ex. 72) at 15.

**Statement No. 52 reads:** Friends and family told NPD that Lockmiller was afraid of Beaman and she intended to seek an order of protection. (Ex. 4, Zayas, pp. 190-95).

**RESPONSE:** Disputed. While Zayas’ notes refer to Jennifer Lockmiller potentially seeking an order of protection, he had absolutely no idea whether this was an order of protection sought against Mr. Beaman or against someone else. Zayas Dep. (Def. Ex. 4) at 190-95. And Defendants’ claim regarding friends and family telling NPD that Lockmiller was afraid of Beaman is wholly unsupported by their record citation.

**Statement No. 53 reads:** Heidi Steinman, a close friend of Lockmiller’s, told NPD detectives that Beaman treated Lockmiller like she was his property. (Ex. 27, Steinman Stmt., p. 10). Steinman told NPD detectives Lockmiller told her that Beaman had thrown a glass at Lockmiller and had also thrown and broken a lamp when he was angry at her. (Ex. 28, Steinman Stmt., pp. 2-3).

**RESPONSE:** Disputed. The timeframe of this alleged event is entirely unclear. In any case, Ms. Lockmiller threw the glass at Mr. Beaman, not the other way around. Pl. Stmt. Aug. 28, 1993 (Pl. Ex. 42) at 19. Defendants did not know of any evidence suggesting that Mr. Beaman had ever been physically violent toward any individual. *See* Freesmeyer Dep. (Pl. Ex. 16) at 208; Warner Dep. (Pl. Ex. 41) at 173.

**Statement No. 54 reads:** Michael Swaine explained to NPD detectives that Lockmiller thought Beaman was infatuated with her and Beaman thought Lockmiller was the only woman for him (Ex. 24, Swaine 8/28/93 Stmt., p. 9).

**RESPONSE:** Disputed. These comments referred – at the latest – to the early part of the summer, prior to Mr. Beaman departing Bloomington-Normal, traveling to Ohio with a friend, and then staying with his parents in Rockford. *See* Pl. SOF ¶¶ 62-63. In the same interview that Defendants reference, Swaine also said that everything was different in the later summer: “I saw [Alan] and talked to him and he seemed fine.” Swaine Stmt. Aug. 28, 1993 (Pl. Ex. 44) at 12. Swaine also stated that in the later part of the summer, Mr. Beaman and Ms. Lockmiller spoke, and Mr. Beaman “said that he was over her, he didn't love her anymore.” *Id.* at 13. These characterizations were fully consistent with others’ observations that Mr. Beaman had gotten over the relationship in the later part of the summer, as well as the statements made by Mr. Beaman in surreptitiously recorded conversations with Swaine. *See* Pl. SOF ¶¶ 62-63; 111-112.

In the same interview, Swaine also stated that Mr. Beaman is “not physical” and “wouldn't have done this,” referring to the murder. Swaine Stmt. Aug. 28, 1993 (Pl. Ex. 44) at 6, 9.

**Statement No. 55 reads:** Mike Mackey, a friend of Beaman's, told NPD detectives Lockmiller would “fuck with his [Beaman's] head so much that he would just go crazy, I mean, he would be irrational and mood swings and she would just drive him nuts and he would, I mean, for months on end that's all he ever talked about was him and Jen [Lockmiller] and how she was pissing him

off . . . it just made him suicidal I mean it was just nuts and she just drove him crazy.” (Ex. 32, Mackey Stmt., p. MCC 1679).

**RESPONSE:** Disputed. These comments referred – at the latest – to the early part of the summer, prior to Mr. Beaman departing Bloomington-Normal, traveling to Ohio with a friend, and then staying with his parents in Rockford. *See supra* Pl. Resp. to Def. SOF ¶ 62-63.

**Statement No. 56 reads:** NPD detectives learned that in the summer of 1993 Beaman was seeing a psychiatrist, wasn’t eating or sleeping, and “was just a mess” and “a mental wreck” because of what he was “going through with Jen.” (Ex. 24, Swaine 8/28/93 Stmt., pp. 9-14).

**RESPONSE:** Disputed. These comments referred – at the latest – to the early part of the summer, prior to Mr. Beaman departing Bloomington-Normal, traveling to Ohio with a friend, and then staying with his parents in Rockford. *See* Pl. SOF ¶¶ 62-63. In the same interview that Defendants reference, Swaine also said that everything was different in the later summer: “I saw [Alan] and talked to him and he seemed fine.” Swaine Stmt. Aug. 28, 1993 (Pl. Ex. 44) at 12. Swaine also stated that in the later part of the summer, Mr. Beaman and Ms. Lockmiller spoke, and Mr. Beaman “said that he was over her, he didn’t love her anymore.” *Id.* at 13. These characterizations were fully consistent with others’ observations that Mr. Beaman had gotten over the relationship in the later part of the summer, as well as the statements made by Mr. Beaman in surreptitiously recorded conversations with Swaine. *See* Pl. SOF ¶¶ 62-63; 111-112.

In the same interview, Swaine also stated that Mr. Beaman is “not physical” and “wouldn’t have done this,” referring to the murder. Swaine Stmt. Aug. 28, 1993 (Pl. Ex. 44) at 6, 9.

**Statement No. 57 reads:** Jennifer Seig told NPD detectives she believed Beaman threatened to kill Lockmiller and Swaine if he ever caught them in bed together. (Ex. 33, Seig Stmt., p. 6).

**RESPONSE:** Disputed. Seig made it clear when she said this that she was struggling to distinguish between reality and her dreams:

See that's where I'm having problems because this will sound really weird to you, but I, for some reason, I remember him saying that if he ever caught them in bed together that he would kill both of them. But I don't know if that was, it's hard to explain, but **I don't know if he said that or if that's the, or if I had it in a dream or something**, but for some reason, it sticks out in my mind that he said something like that.

Seig Stmt. (Def. Ex. 33) at 6 (emphasis added).

**Statement No. 58 reads:** Katy Corbett, Beaman's friend, told NPD detectives she and Lockmiller were talking about relationships and Lockmiller was ready to call it quits with Beaman, but she did not because Beaman "went through these times when he would be violent and you know he punched a huge hole in her wall at her apartment and just you know times that he would get really upset." Corbett also said that Lockmiller told her she was going to wait until the end of the summer to break it off because Lockmiller didn't want to make Beaman upset while he was still working here at the theater. (Ex. 28, Corbett Stmt., p. 7). Corbett stated that Swaine was "definitely not" a violent individual, but "if Alan [Beaman] were (sic) in the right frame of mine (sic), he could be violent." (Ex. 28, Corbett Stmt., p. 5). Corbett said every time she saw Beaman "in these violent rages he would usually take it out on something else, like there is holes in the apartment walls everywhere at our complex . . . he would bash things . . ." (Ex. 28, Corbett Stmt., p. 8).

**RESPONSE:** Disputed. These comments referred – at the latest – to the early part of the summer, prior to Mr. Beaman departing Bloomington-Normal, traveling to Ohio with a friend, and then staying with his parents in Rockford. *See supra* Pl. Resp. to Def. SOF ¶¶ 62-63.

The final quote has been strategically edited to remove a critical qualification Corbett made—Mr. Beaman was never violent toward people: “He would bash *things*, you know what I mean, *I never saw him actually go towards someone, another person.*” Corbett Statement (Def. Ex. 28) at 8 (emphasis added). Defendants did not know of any evidence suggesting that Mr. Beaman had ever been physically violent toward any individual. *See* Freesmeyer Dep. (Pl. Ex. 16) at 208; Warner Dep. (Pl. Ex. 41) at 173.

**Statement No. 59 reads:** Swaine also told NPD detectives Beaman got violent and punched a large hole in Lockmiller’s bedroom wall. (Ex. 24, Swaine 8/28/93 Stmt., pp. 6-7; Ex. 24, Swaine 8/29/93 Stmt., p. 71).

**RESPONSE:** Disputed as to the characterization “got violent,” as there is no indication that Mr. Beaman directed violence as at a person. The described incident happened during the period that Mr. Beaman and Ms. Lockmiller had been dating, on an evening when Mr. Beaman found Ms. Lockmiller having sex with John Murray. Swaine Stmt. Aug. 28, 1993 (Pl. Ex. 44) at 6-7; Pl. SOF ¶ 65.

**Statement No. 60 reads:** Michael Bowen, Lockmiller’s friend, told NPD detectives Lockmiller told him Beaman “pushed her before.” (Ex. 9, Hospelhorn Rpt., p. 8).

**RESPONSE:** Disputed. While the vast majority of interviews in the Lockmiller homicide investigation were recorded, this one was not. There is no way to know whether Bowen actually

said this. Notably, Hospelhorn's report deviated significantly from what a witness actually said in at least one other instance in this case. *See* Pl. Resp. to Def. SOF ¶ 51. Defendants did not know of any evidence suggesting that Mr. Beaman had ever been physically violent toward any individual. *See* Freesmeyer Dep. (Pl. Ex. 16) at 208; Warner Dep. (Pl. Ex. 41) at 173.

**Statement No. 61 reads:** Meredith Haynes, a friend of Lockmiller's who had been romantically interested in Beaman in the past, stated that Lockmiller told her Beaman broke into her (Lockmiller's) apartment or broke down the door several times, pushed her around and knocked things over. (Ex. 34, Haynes Stmt., pp. 1-2, 6-7).

**RESPONSE:** Disputed. Haynes did not tell investigators that Mr. Beaman had broken down the door "several times," nor was that the case. On two occasions, when Ms. Lockmiller was having sex with John Murray and later Michael Swaine, Mr. Beaman indeed kicked open the door. Pl. SOF ¶ 65. There was absolutely no evidence that Mr. Beaman did anything violent to anyone on either occasion, and Swaine affirmatively said otherwise. *Id.* Defendants did not know of any evidence suggesting that Mr. Beaman had ever been physically violent toward any individual. *See* Freesmeyer Dep. (Pl. Ex. 16) at 208; Warner Dep. (Pl. Ex. 41) at 173. Indeed, in the same statement Defendants cite above, Haynes, referring to the murder, said, "I really don't think that [Alan] would have anything to do with something like that." Haynes Stmt. (Def. Ex. 34) at 8.

**Statement No. 62 reads:** During the summer of 1993, Michael Swaine and Beaman were roommates and working together at the Illinois Wesleyan theater. (Ex. 20, Freesmeyer GJ Tr., pp. 249-50). Swaine began a sexual relationship with Lockmiller in June 1993. (Ex. 20, Freesmeyer GJ Tr., pp. 249-50; Ex. 24, Swaine 8/29/93 Stmt., p. 304, 221). Swaine and

Lockmiller had sex for the first time on June 11, 1993, when Beaman was driving to/from Rockford to get marijuana for Lockmiller. (Ex. 20, Freesmeyer GJ Tr., p. 250; Ex. 24, Swaine 8/29/93 Stmt., pp. 405, 22).

**RESPONSE:** Disputed. While Freesmeyer told the grand jury testimony that Mr. Beaman was traveling to Rockford to get marijuana for Ms. Lockmiller, it is not clear what he based this on, and Defendants' other citations do not support this portion of the statement.

**Statement No. 63 reads:** Swaine told NPD Beaman gets "real jealous" and "would make everything real dramatic" when he thought that "something is going on" between Lockmiller and another man. Consequently, Swaine and Lockmiller attempted to hide their relationship from Beaman for a time. (Ex. 24, Swaine 8/29/93 Stmt., pp. 3-11; Ex. 24, Swaine 8/28/93 Stmt., pp. 5-6). The Monday after Swaine slept with Lockmiller for the first time, he told Beaman that he had just "kissed her" causing Beaman to get "mad at her and not me [Swaine]." (Ex. 24, Swaine 8/29/93 Stmt., pp. 4-7.)

**RESPONSE:** Disputed. These comments referred – at the latest – to the early part of the summer, prior to Mr. Beaman departing Bloomington-Normal, traveling to Ohio with a friend, and then staying with his parents in Rockford. *See supra* Pl. Resp. to Def. SOF ¶¶ 62-63.

**Statement No. 64 reads:** On July 25, 1993, Beaman searched Swaine's bedroom while Swaine was at work because Beaman "had to have evidence" of Lockmiller and Swaine's relationship. (Ex. 20, Freesmeyer GJ Tr., p. 250; Ex. 24, Swaine 8/29/93 Stmt., p. 26; Ex. 33, Seig Stmt., p. 5-6). During his search of Swaine's bedroom, Beaman found two letters from Lockmiller to Swaine, which Beaman felt confirmed his suspicions that more had happened between them than

Swaine told Beaman. (Ex. 24, Swaine 8/29/93 Stmt., pp. 7-8, 26; Ex. 20, Freesmeyer GJ Tr., pp. 251-53). Beaman also found an opened box of condoms in his and Swaine's apartment and believed some condoms were missing from the box. (Ex. 29, Endicott Stmt., pp. 5-6). Beaman thought the missing condoms meant Swaine was having sex with Lockmiller. (Ex. 29, Endicott Stmt., pp. 5-6).

**RESPONSE:** Disputed as to the characterization "had to have evidence," which is not supported by Defendants' citations.

**Statement No. 65 reads:** Beaman took the letters he found in Swaine's bedroom to the theater where he and Swaine worked together, and angrily confronted Swaine about his relationship with Lockmiller, accusing Swaine of "fucking my girlfriend." (Ex. 24, Swaine 8/29/93 Stmt., p. 26; Ex. 28, Ex. 28, Corbett Stmt., pp. 3-4).

**RESPONSE:** Undisputed.

**Statement No. 66 reads:** Immediately thereafter, Beaman went to Lockmiller's apartment to confront her. (Ex. 27, Steinman Stmt., pp. 2-3). Lockmiller's apartment door was locked, so Beaman pounded on Lockmiller's door until he was let in. (Ex. 27, Steinman Stmt., pp. 2-3).

**RESPONSE:** Disputed as to the claim that Mr. Beaman "pounded on Ms. Lockmiller's door," which is not supported by the record citation.

**Statement No. 67 reads:** Steinman, who was with Lockmiller in her apartment at that time, told NPD detectives that Beaman said, "Don't do this to me Jen. I'm going to kill myself" and kept threatening suicide until he was let into Lockmiller's apartment. (Ex. 27, Steinman Stmt., pp.

23). Once inside, Beaman angrily confronted Lockmiller with the letters he believed was evidence of her relationship with Swaine. (Ex. 27, Steinman Stmt., p. 2-3). He went through Lockmiller's bathroom garbage, found a tampon applicator, and said, "See this is prophylactic. I know it, I know it. You had sex with him." (Ex. 27, Steinman Stmt., p. 3).

**RESPONSE:** Undisputed that Steinman made this statement.

**Statement No. 68 reads:** Beaman left Bloomington on July 25 after confronting Swaine and Lockmiller and went to Ohio, where he stayed with a friend, until August 4. (Ex. 24, Swaine, pp. 26).

**RESPONSE:** Undisputed

**Statement No. 69 reads:** Before leaving Bloomington, Beaman left his theater professor, Dr. Brown, a note stating, "I know this is unprofessional and childish, but this has been chewing at me since early July. I'm too damn tired of this to be professional. If that makes me a nobody or means that I'm through at IWU, okay. But the things that I've found out and witnessed about my aforementioned roommate and my ex-fiancé have crushed my spirit. I had to get out of the slump, and it's really just time for me to leave. I'm just afraid I'd cause even more hell to break loose." (Ex. 20, Freesmeyer GJ Tr., pp. 250-52). Beaman attached the two letters he found in Swaine's room to the note he left for Dr. Brown. (Ex. 20, Freesmeyer GJ Tr., pp. 251-53).

**RESPONSE:** Undisputed.

**Statement No. 70 reads:** While he was in Ohio, Beaman called Lockmiller eight times. (Ex. 30, Stipulation-Phone records, McLean 1306-1307; Ex. 16).

**RESPONSE:** Undisputed.

**Statement No. 71 reads:** On August 4, Beaman returned to Bloomington to retrieve his car. (Ex. 24, Swaine 8/29/93 Stmt., pp. 13, 69). Upon arriving in Bloomington, Beaman went to the apartment he shared with Swaine and saw Swaine driving in Lockmiller's car. (Ex. 24, Swaine 8/29/93 Stmt., pp. 13, 69).

**RESPONSE:** Undisputed. Indeed, Swaine noted that during this encounter, which occurred after Mr. Beaman had spent time in Ohio and with his parents in Rockford, "I saw [Alan] and talked to him and he seemed fine." Swaine Stmt. Aug. 28, 1993 (Pl. Ex. 44) at 12. Swaine described the tenor of the conversation as "peaceful" Swaine Dep. (Pl. Ex. 69) at 131.

**Statement No. 72 reads:** That same day, Beaman went to Lockmiller's apartment for about 30-45 minutes "to talk to her because we had broken up." (Pl. Stmt., p. 13). Beaman then drove Lockmiller to class, and when he dropped her off, she kissed him goodbye and he told her, "that might be the last time we ever kissed" because he did not think he could ever trust her again. (Ex. 35, Pl. Stmt., p. 14).

**RESPONSE:** Undisputed. Swaine, who had talked to Ms. Lockmiller about this meeting with Beaman, reported to Freesmeyer that Ms. Lockmiller said that she and Mr. Beaman had ironed things out: "[H]e went to talk to her, and I guess things were ironed out she said he was calmed down." Swaine also stated that Mr. Beaman told Ms. Lockmiller that "he was over her." Swaine Stmt. Aug. 28, 1993 (Pl. Ex. 44) at 4 (AB 1450). Indeed, this was the last time Mr. Beaman saw Ms. Lockmiller, and he left the conversation feeling that he had put things behind him. Pl. Stmt. Aug. 28, 1993 (Pl. Ex. 42) at 14 (AB 1460).

**Statement No. 73 reads:** Beaman told NPD detectives that August 4, 1993 was the last time he saw Lockmiller and that he had “no idea” if she was dating anyone “and didn’t want to know.” (Ex. 35, Pl. Stmt., pp. 9, 13; Ex. 20, Freesmeyer GJ Tr., p. 179).

**RESPONSE:** Undisputed.

**Statement No. 74 reads:** Beaman returned to Rockford on August 4, 1993. (Ex. 35, Pl. Stmt., pp. 2-3, 1013).

**RESPONSE:** Undisputed.

**Statement No. 75 reads:** Swaine moved out of the apartment he shared with Beaman and began living with Lockmiller in her apartment around August 14 or 15, 1993. (Ex. 24, Swaine 8/28/93 Stmt., pp. 23; Ex. 24, Swaine 8/29/93 Stmt., pp. 2-3; Ex. 8, Freesmeyer Rpt., pp. 12). At the time of the murder, Swaine was living with Lockmiller but had gone home to Elmhurst, Illinois the previous week to work. (Ex. 24, Swaine 8/29/93 Stmt., pp. 33-34, 5362).

**RESPONSE:** Undisputed.

**Statement No. 76 reads:** Swaine’s belongings were in Lockmiller’s apartment after he moved in: his “stuff” was on the top bunk in the bedroom, his alarm clock was on the floor of her bedroom, his clothes were in Lockmiller’s closet and drawers, his box fan was in her bedroom, a box of his letters was in the living room and his phone list was near the TV. (Ex. 24, Swaine 8/29/93 Stmt., pp. 35-51).

**RESPONSE:** Disputed in that Swaine had hung up one of his personal belongings, a sign that said “Swaine Street,” in Ms. Lockmiller’s apartment by July 1993. Swaine Trial Trans. (Pl. Ex. 93) at 731; *see also* Swaine Dep. (Pl. Ex. 69) at 124-26. Mr. Beaman saw the Swaine sign in Ms. Lockmiller’s living room when he visited her apartment on August 4th. Pl. Dep. (Pl. Ex. 2) at 123, 495.

**Statement No. 77 reads:** Swaine told detectives that when he talked to Lockmiller on Sunday, August 21, Lockmiller said that she had not told Beaman she was living with Swaine. (Ex. 24, Swaine 8/29/93 Stmt., p. 70).

**RESPONSE:** Disputed in that the record citations do not make it clear when the conversation between Swaine and Lockmiller occurred. In any case, Mr. Beaman saw Swaine’s sign in Ms. Lockmiller’s apartment on August 4. *See* Pl. Resp. to Def. SOF ¶ 76.

**Statement No. 78 reads:** Steinman told NPD detectives Beaman called Lockmiller from Rockford to tell her that he loved her and missed her, but that he was hearing from friends that she had gone out with a guy. (Ex. 27, Steinman Stmt., p. 4; Ex. 13, Ex. 20, Freesmeyer GJ Tr., pp. 150-51).

**RESPONSE:** Disputed. Steinman indeed made this statement, but the claim that Mr. Beaman called Ms. Lockmiller to say he loved her was obviously false—during the period after his visit to Ohio, Mr. Beaman generally was not even returning Ms. Lockmiller’s calls. Lockmiller-Beaman Phone Records (Pl. Ex. 99) (showing that during this period, Ms. Lockmiller called Mr. Beaman repeatedly, and he called her only once).

Statement No. 79 reads: Lockmiller's phone records show she made 28 calls to Beaman's Rockford residence on August 22, 1993. (Ex. 20, Freesmeyer GJ Tr., pp. 148-49; Ex. 16). The next day, August 23, Beaman and Lockmiller spoke on the telephone for 13 minutes. (Ex. 20, Freesmeyer GJ Tr., p. 150; Ex. 16).

**RESPONSE:** Undisputed.

Statement No. 80 reads: Beaman told Detective Freesmeyer Lockmiller was asking to get back together with him during the August 23 call, but Beaman said "No, I don't want to talk to you. You fucked my fucking roommate and I don't want to talk to you." Then, he hung up the phone. (Ex. 31, 2/16/94 Overhear Tr., p. 35).

**RESPONSE:** Undisputed.

Statement No. 81 reads: In addition to Beaman and Swaine, Stacey "Bubba" Gates, John Murray, and Rob Curtis had early on in the investigation been investigated as possible suspects. (Ex 4, Zayas, p. 103; Ex. 1, Freesmeyer, p. 63; Ex. 8, Freesmeyer Rpt.). Freesmeyer began focusing exclusively on Beaman. (Ex. 1, Freesmeyer, p. 192).

**RESPONSE:** Disputed. Freesmeyer testified that by Saturday, August 28 (the day Ms. Lockmiller's body was found), Mr. Beaman was the primary suspect in his mind. Freesmeyer Dep. (Pl. Ex. 16) at 192. This statement is also disputed in that it suggests that that the investigation ultimately uncovered information that ruled out Gates, Murray, and Curtis as suspects. *See* Pl. SOF ¶¶ 16-55.

**Statement No. 82 reads:** Gates was eliminated as a suspect early on when his alibi was verified. (Ex. 1, Freesmeyer, p. 90). He was teaching at a school in Peoria when Lockmiller was murdered. (Ex. 1, Freesmeyer, p. 277).

**RESPONSE:** Disputed. Freesmeyer, who was tasked with verifying Gates' alibi, did not investigate the possibility that Gates had left the school in Peoria at some point during the course of the day that Ms. Lockmiller was murdered. Freesmeyer Dep. (Pl. Ex. 16) at 277-85. Warner, who was in charge of interviewing Gates, admitted that Gates was never cleared as a potential suspect. *See* Pl. SOF ¶ 83.

**Statement No. 83 reads:** Tony Daniels was in charge of investigating Murray. (Ex. 5, Daniels, p. 131). Daniels and Hospelhorn interrogated Murray on two occasions, and tape recorded the statements. (Ex. 2, Hospelhorn, pp. 33, 151-50; Ex. 9, Hospelhorn Rpt., pp. B, 1; Ex 10 and 11, Murray Interview Transcripts). The September 2, 1993 interview with Murray revealed the following:

- (a) Murray previously dated Lockmiller.
- (b) Murray visited Lockmiller's apartment sometime between August 19 and 23.
- (c) Murray believed he left Bloomington to go to Byron, Illinois on August 24 at 3 p.m.
- (d) Murray was in Byron until September 1.
- (e) While Beaman and Lockmiller were dating, Beaman "freaked out" and kicked in Lockmiller's door when Murray was inside, and grabbed Lockmiller's arm.
- (f) Lockmiller told Murray she was scared to break up with Beaman because she "did not know what he was going to do" and that Beaman was a "psycho."

(Ex. 10, September 2, 1993 Murray Interview Transcript, pp. 1, 5, 13-14, 17).

**RESPONSE:** Disputed. Murray made several other incriminating statements, including the fact that he was a drug dealer. *See* Pl. SOF ¶¶ 20-21. This statement is also disputed in that it presumes that what Murray “revealed” was truthful and reliable information. Each of the sub-points is addressed separately:

a. Murray previously dated Lockmiller.

**RESPONSE:** Undisputed.

b. Murray visited Lockmiller’s apartment sometime between August 19 and 23.

**RESPONSE:** Murray changed his story as to whether this was the last time he saw Ms. Lockmiller alive. *See* Murray Stmt. Sept. 2, 1993 (Pl. Ex. 21) at 4-5; Murray Stmt. Sept. 8, 1993 (Pl. Ex. 25) at 2-3.

c. Murray believed he left Bloomington to go to Byron, Illinois on August 24 at 3 p.m.

**RESPONSE:** Murray was lying about this supposed alibi. *See* Pl. Resp. to Def. SOF ¶ 83(b); Pl. SOF ¶¶ 30-34.

d. Murray was in Byron until September 1.

**RESPONSE:** Undisputed.

e. While Beaman and Lockmiller were dating, Beaman “freaked out” and kicked in Lockmiller’s door when Murray was inside, and grabbed Lockmiller’s arm.

**RESPONSE:** On the referenced occasion, Murray was having sexual intercourse with Ms. Lockmiller and both individuals were trying to conceal that fact from Mr. Beaman, whom Ms. Lockmiller was dating at the time. Murray Stmt. Sept. 2, 1993 (Pl. Ex. 21) at 16; Pl. Dep. (Pl. Ex. 2) at 142-43, 146-47. Furthermore, Murray, as a suspect in the case and a drug dealer who lied several times to the police, is not a reliable witness. *See* Pl. SOF ¶¶ 30-35.

f. Lockmiller told Murray she was scared to break up with Beaman because she “did not know what he was going to do” and that Beaman was a “psycho.” *See* Pl. SOF ¶¶ 30-35.

**RESPONSE:** Murray, as a suspect in the case and a drug dealer who lied several times to the police, is not a reliable witness. *See* Pl. SOF ¶¶ 30-35.

**Statement No. 84 reads:** Daniels and Hospelhorn’s September 8, 1993 interview with Murray revealed the following:

- (a) Murray clarified the last time he saw Lockmiller was on August 21, a date he recalled based on his live-in girlfriend Debbie Mackoway’s work schedule.
- (b) Mackoway left their apartment for work at approximately 6:30 a.m. on August 25, and returned to their apartment at 1 p.m.
- (c) Murray was at home from the time Mackoway left for work until the time she returned at 1 p.m.
- (d) Murray was with Mackoway from 1 p.m. to 4 p.m. on August 25.
- (e) Murray left Bloomington for Byron, Illinois on August 25 at 4 p.m.
- (f) Murray returned to Bloomington on September 2.

(g) Murray sold Lockmiller marijuana.

(h) Lockmiller owed Murray \$20.

(i) Murray offered to take a polygraph.

(j) Murray offered to provide his telephone records to the NPD.

(k) On the day Murray learned of Lockmiller's death, he and Mackoway moved into a hotel because they believed Beaman killed Lockmiller and were afraid of Beaman.

(Ex. 11, September 8, 1993 Murray Interview Transcript, pp. 2-7, 13-14, 18, 23; Ex. 2, Hospelhorn, pp.151-53).

**RESPONSE:** Disputed. This statement presumes that what Murray "revealed" was truthful and reliable information. Each of the sub-points is addressed separately:

a. Murray clarified the last time he saw Lockmiller was on August 21, a date he recalled based on his live-in girlfriend Debbie Mackoway's work schedule.

**RESPONSE:** Murray, as a suspect in the case and a drug dealer, is not a reliable witness. This statement is also disputed in that Murray gave inconsistent statements as to the last time he saw Ms. Lockmiller alive. Pl. Resp. to Def. SOF ¶ 83(b).

b. Mackoway left their apartment for work at approximately 6:30 a.m. on August 25, and returned to their apartment at 1 p.m.

**RESPONSE:** Mackoway did not return to the apartment she shared with Murray at 1 p.m. Rather, she stated that Murray was with her from about 2 p.m. until 4:20 p.m. on Wednesday, August 25, 1993. Daniels Report Sept. 4, 1993 (Pl. Ex. 53). *See also* Pl. SOF ¶¶ 31.

- c. Murray was at home from the time Mackoway left for work until the time she returned at 1 p.m.

**RESPONSE:** There is no evidence in the record that supports Murray's statement that he was home the morning and early afternoon of August 25th.

- d. Murray was with Mackoway from 1 p.m. to 4 p.m. on August 25.

**RESPONSE:** *See* Pl. Resp. to Def. SOF 84(b).

- e. Murray left Bloomington for Byron, Illinois on August 25 at 4 p.m.

**RESPONSE:** Mackoway left Murray at approximately 4:20 p.m. She returned to their shared apartment at 6:30 p.m., at which time Murray was no longer there. Daniels Report Sept. 4, 1993 (Pl. Ex. 98); Hospelhorn Reports (Pl. Ex. 54) at 14. There is no evidence in the record that supports Murray's statement that he left for Bloomington around 4 p.m.

- f. Murray returned to Bloomington on September 2.

**RESPONSE:** Undisputed.

- g. Murray sold Lockmiller marijuana.

**RESPONSE:** Undisputed.

- h. Lockmiller owed Murray \$20.

**RESPONSE:** Murray told Normal police officers that Lockmiller bought an eighth or a quarter of marijuana from him about once per month, that she owed him "like 20 bucks"

for the drugs, and that at the time of her death she would not pay Murray back. Murray Stmt. Sept. 8, 1993 (Pl. Ex. 25) at 14-16.

i. Murray offered to take a polygraph.

**RESPONSE:** Disputed. After Murray failed to complete the first polygraph, Freesmeyer arranged for Murray to take a second polygraph but he never showed up. Freesmeyer Police Reports (Pl. Ex. 7) at 26-27; Freesmeyer Dep. (Pl. Ex. 16) at 98.

j. Murray offered to provide his telephone records to the NPD.

**RESPONSE:** Disputed. Murray mentioned the phone records in response to an investigator's demand that he prove his whereabouts. Murray Stmt. Sept. 8, 1993 (Pl. Ex. 25) at 25.

k. On the day Murray learned of Lockmiller's death, he and Mackoway moved into a hotel because they believed Beaman killed Lockmiller and were afraid of Beaman.

**RESPONSE:** See Sealed Addendum.

**Statement No. 85 reads:** Daniels and Hospelhorn also interviewed Murray's live-in girlfriend, Debbie Mackoway on September 3, 1993 and September 8, 1993. (Ex. 2, Hospelhorn, pp. 33, 151; Ex. 9, Hospelhorn Rpt., pp. 9-10, 4434; Ex. 12, Mackoway Interview Transcripts). Those interviews revealed the following:

(a) Mackoway was with Murray at their apartment from 2 p.m. to 4:20 p.m. on

August 25.

(b) Murray left Bloomington for Byron, Illinois on August 25 at approximately 4:20 p.m.

(c) Murray returned to Bloomington on September 1.

(d) Mackoway last saw Lockmiller on August 21. Mackoway was with Murray when they last saw Lockmiller, which she believed was the last time Murray saw Lockmiller as well.

(Ex. 12, Mackoway September 3 and 8, 1993 Interview Transcripts; Hospelhorn Report, p. AB004430; Ex. 2 Hospelhorn, pp. 154-55).

**RESPONSE:** Each of the sub-points is addressed separately:

a. Mackoway was with Murray at their apartment from 2 p.m. to 4:20 p.m. on August 25.

**RESPONSE:** Undisputed

b. Murray left Bloomington for Byron, Illinois on August 25 at approximately 4:20 p.m.

**RESPONSE:** Mackoway left Murray at approximately 4:20 p.m. She returned to their shared apartment at 6:30 p.m., at which time Murray was no longer there. Mackoway had no first-hand knowledge of when Murray left their apartment. Daniels Report Sept. 4, 1993 (Pl. Ex. 98).

c. Murray returned to Bloomington on September 1.

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**RESPONSE:** Undisputed.

d. Mackoway last saw Lockmiller on August 21. Mackoway was with Murray when they last saw Lockmiller, which she believed was the last time Murray saw Lockmiller as well.

**RESPONSE:** Disputed. Mackoway had no first-hand knowledge of when Murray last saw Ms. Lockmiller.

**Statement No. 86 reads:** On September 30, 1993, Daniels took Murray to the Morton Crime Lab for a polygraph. (Ex. 5, Daniels, pp. 169, 256, 277-278). Terrance McCann was the polygraph examiner who administered the test to Murray. (Ex. 5, Daniels, p. 254). McCann tried to administer the test to Murray, but was unable to get a result because Murray was unable to comply with McCann's directions. (Ex. 37, McCann, pp. 47-48). McCann did not conclude that Murray intentionally prevented a result to deceive the examiner. (Ex. 37, McCann, pp.198-99). McCann explained to Daniels that the test could not be completed. (Ex. 5, Daniels, P. 261). While driving Murray back to Bloomington, Daniels discussed with Murray taking another polygraph with a female examiner, which might relax Murray so that he could complete the test. (Ex. 5, Daniels, p. 270).

**RESPONSE:** Disputed. There is substantial evidence in the record suggesting that Murray intentionally foiled the polygraph. See Pl. SOF ¶¶ 36-40. Regarding Daniel's discussion with Murray of taking another polygraph with a female examiner, Daniels testified that he made this statement merely as "a ploy...to try to solicit another polygraph from [] Murray." Daniels Dep. (Pl. Ex. 26) at 270-71.

**Statement No. 87 reads:** During the course of the investigation, Warner received a polygraph report regarding Murray. The report was requested by Daniels, who was the CID detective who was assigned to investigate Murray. Warner made the appointment for the polygraph by calling the polygraph examiner and asking him to set up the Murray examination. (Ex. 3, Warner, p. 38). When Warner received that report, he gave it to Daniels. (Ex. 3, Warner, p. 39). He did not know what Daniels did with the report. (Ex. 3, Warner, pp.45-46).

**RESPONSE:** Disputed. Warner requested the polygraph. It is disputed whether Warner, when he received the polygraph report, ever gave the report to Daniels. See Pl. SOF ¶¶ 125-129.

**Statement No. 88 reads:** Warner understood that reports that were received from the State Police Lab were also sent directly to the State's Attorney's Office by the State Police Lab. Warner believed that the Murray polygraph report, in addition to being sent to the NPD, would also be sent directly by the State Crime Lab to the State's Attorney's Office. (Ex. 3, Warner, pp. 39-40).

**RESPONSE:** Disputed. Warner testified he had no first-hand knowledge of whether such reports were provided to the State's Attorney's Office. Warner Dep. (Pl. Ex. 41) at 138-39. Terrence McCann, the polygrapher, testified that he sent the report only to the requesting officer; he did not provide the report to the State's Attorney's Office. McCann Dep. (Pl. Ex. 28) at 143-144; Murray Polygraph Docs. (Pl. Ex. 32); Gates Polygraph Docs. (Pl. Ex. 38).

**Statement No. 89 reads:** Daniels does not deny getting the Murray polygraph report from Warner, but he has no memory of it. (Ex. 5, Daniels, pp. 279-80, 677).

**RESPONSE:** Disputed. *See* Pl. Resp. to Def. SOF ¶ 87.

**Statement No. 90 reads:** Daniels has no reason to believe Warner would have done anything to intentionally suppress the Murray polygraph report. During Daniels' deposition, the following colloquy occurred:

Q: Would it be fair to say you don't feel like Dave Warner – well, you don't believe Dave Warner did anything wrong in this case?

A: In my opinion, Dave Warner did not do anything that would have been illegal or unprofessional.

Q: Okay. You have no reason to believe that Dave Warner would have done something to intentionally hide that polygraph report from anybody?

A: In my opinion, I don't believe he had any motive, anything to gain by that, nor did he do it.

(Ex. 5, Daniels, pp. 435-436).

**RESPONSE:** Disputed. Daniels also testified that he did not know what happened to the polygraph report after Warner received it from McCann. Daniels Dep. (Pl. Ex. 26) at 666.

**Statement No. 91 reads:** Daniels describes the possible explanations for the Murray polygraph report not being turned over to the State's Attorney as follows:

- (a) Warner gave it to Daniels and Daniels misplaced it. (Ex. 5, Daniels, pp. 677-78);
- (b) An NPD intern who made copies for the file could have misplaced it. (Ex 5, Daniels, pp. 223-24);
- (c) Daniels could have put it in a different file accidentally. (Ex. 5, Daniels, p. 677);
- and
- (d) The report could have otherwise fallen through the cracks somewhere in the NPD.

(Ex. 5, Daniels, pp. 675-66).

**RESPONSE:** Each item is addressed separately below.

a. Warner gave it to Daniels and Daniels misplaced it. (Daniels, pp. 677-78);

**RESPONSE:** Disputed. Detective Daniels had no reason whatsoever to believe that he lost or misplaced the polygraph report, and could not remember ever losing or misplacing an original copy of any investigative report in the course of his career. Daniels Dep. (Pl. Ex. 26) at 725. *See also id.* at 667-668.

b. An NPD intern who made copies for the file could have misplaced it.  
(Daniels, pp. 223-24);

**RESPONSE:** Disputed. This alleged fact is entirely unsupported by the Defendants' citation to the record. There is no mention in Daniels deposition that any NPD intern had the polygraph report in his possession, made copies of the polygraph report and/or misplaced the polygraph report.

c. Daniels could have put it in a different file accidentally. (Daniels, p. 677);

**RESPONSE:** *See* Pl. Resp. to Def. SOF ¶ 91(a). The statement that Daniels "put it in a different file accidentally" was a hypothetical question posed by defense counsel, which lacked foundation in the record; it was not a statement made by Daniels. Daniels Dep. (Pl. Ex. 26) at 677-68.

d. The report could have otherwise fallen through the cracks somewhere in the NPD. (Daniels, pp. 675-66).

**RESPONSE:** This alleged fact is entirely unsupported by the Defendants' citation to the record. Daniels did not testify that the polygraph report did or could have fallen "through the cracks." Daniels Dep. (Pl. Ex. 26) at 675.

**Statement No. 92 reads:** Freesmeyer's entire knowledge regarding Murray was documented in a comprehensive report Freesmeyer completed. (Ex. 1, Freesmeyer, p. 220; Ex. 8, Freesmeyer .). Kenneth Frankenberry, a state polygraph examiner from Rockford had set up three polygraph examinations at the NPD on October 12, 1993. One was for Beaman's friend, Chris Carbone, one was for Murray, and one for Beaman. (Ex. 1, Freesmeyer, p. 139; Ex. 8, Freesmeyer Rpt., pp.26-271). Murray did not show up for his examination, and Beaman refused. (Ex. 1, Freesmeyer, p. 139; Ex. 8, Freesmeyer Rpt., pp. 26, 29). Freesmeyer was aware that Daniels' interviewing style scared off a lot of the young people he interviewed. (Ex. 1, Freesmeyer, p. 140). Murray's not showing up for a polygraph did not indicate anything suspicious to Freesmeyer. (Ex. 1, Freesmeyer, p. 140). Freesmeyer had no other involvement with the investigation of Murray. Freesmeyer did not interview Murray, and likely never met with him. (Ex. 1, Freesmeyer, p. 87).

**RESPONSE:** Disputed. First, the claim that Freesmeyer's police reports fully document his knowledge of Murray wholly misstates the record. Freesmeyer's Police Reports, (Pl. Ex. 7), contain none of the following information, even though Freesmeyer had knowledge about the following information about Murray:

- a. The fact that Murray beat his girlfriend on a continual basis. Pl. SOF ¶¶ 41-42.
- b. The fact that Murray abused steroids. Pl. SOF ¶ 44.
- c. The fact that Murray was a drug dealer. Pl. SOF ¶ 35.

d. The fact that Murray had taken a polygraph examination. Pl. SOF ¶44.

Additionally, the intentional omission of exculpatory time trial evidence from Freesmeyer's reports, *see* Pl. SOF ¶ 151, suggests that Freesmeyer may also have intentionally concealed the information about Murray in his reports.

Second, regarding the request to polygraph Mr. Beaman, Mr. Beaman initially told Freesmeyer that he would take the polygraph if he could get his lawyer's approval. Freesmeyer Police Reports (Pl. Ex. 7) at 33. Mr. Beaman's attorney ultimately did not allow Mr. Beaman to take a polygraph, and Mr. Beaman informed Freesmeyer of his attorney's position. *Id.* at 47. Mr. Beaman told Freesmeyer that he "could not go against his lawyer[']s decision." *Id.*

Third, this statement is disputed as to the claim that Daniels' interview style intimidated witnesses. Freesmeyer admitted under oath that he did not document this alleged fact in any report. Freesmeyer Dep. (Pl. Ex. 16) at 140-41. Murray did end up taking a polygraph on September 30, 1993, Pl. SOF ¶ 36, after Daniels had already interviewed Murray twice.

Fourth, this statement is further disputed as to the claim that Murray's failure to show up for a polygraph examination was not suspicious to Freesmeyer, since it presumes Freesmeyer's belief was reasonable. Murray was the only documented witness and/or suspect who was scheduled to take a polygraph and who did not show up. Freesmeyer Police Reports (Pl. Ex. 7) at 27. Freesmeyer was also aware of a trove of evidence inculcating Murray in Ms. Lockmiller's homicide, as noted above.

**Statement No. 93 reads:** In February, 1994, several NPD investigators met with homicide detectives at the Chicago Police Department to discuss the investigation. (Ex. 5, Daniels, pp. 318-20). According to Daniels, alternative suspects, including Murray, came up at that meeting.

(Ex. 5, Daniels, pp. 325-26). The Chicago detectives recommended that the NPD investigators continue to focus on Beaman as the prime suspect. (Ex. 5, Daniels, p. 321).

**RESPONSE:** Disputed. The Chicago detectives suggested that Freesmeyer continue attempting to talk to Mr. Beaman while the rest of the investigative team continued to talk to other potential suspects, including John Murray. Daniels Dep. (Pl. Ex. 26) at 325-27; Daniels Testimony, Hearing on Second Verified Amended Petition for Post-Conviction Relief (Pl. Ex. 30) at 121-22.

**Statement No. 94 reads:** On May 16, 1994, a meeting was held to decide if Beaman should be arrested for Lockmiller's murder. Attending the meeting were NPD Chief James Taylor, Zayas, Daniels, Freesmeyer, State's Attorney Reynard, and Assistant State's Attorney Souk. (Ex. 6, Souk, pp. 232-36).

**RESPONSE:** This statement is disputed as to the claim that the meeting was held to "decide" whether to arrest Mr. Beaman. In reality, Freesmeyer had decided to do so long before; Freesmeyer Police Reports (Pl. Ex. 7) at 32 (On October 27, 1993, Freesmeyer "informed" Mr. Beaman "that he was going to be arrested for Jennifer's death at one point or another.").

**Statement No. 95 reads:** The investigators provided input on what the nine month investigation had produced. As a result of that discussion, State's Attorney Reynard decided that Beaman should be charged with Lockmiller's murder. (Ex. 6, Souk, p. 140). None of the NPD investigators lobbied or urged the State's Attorney to charge Beaman. (Ex. 6, Souk, p. 442). The decision was solely made by Reynard. (Ex. 6, Souk, p. 140). Souk agreed with the decision. (Ex.

6, Souk, p. 179). According to Souk, no one at the meeting expressed any opposition to the decision to charge Beaman. (Ex. 6, Souk, p. 237).

**RESPONSE:** Disputed. Defendants claim that Souk testified that none of the investigators lobbied *for* the arrest, but in fact, Souk merely testified that he did not recall any investigator lobbying *against* the arrest:

Q. Okay. Do you recall any particular investigator lobbying or, or advocating either strongly in favor of the arrest, or strongly or in any way not in favor of the arrest?

A. A. I don't recall anyone lobbying **not in favor of the arrest**.

Souk Dep. (Pl. Ex. 47) at 442 (emphasis added). Regardless of what happened at this one meeting, however, Defendants had been pushing for Mr. Beaman's arrest from the first day of the investigation, when Freesmeyer selected him as the primary suspect. Pl. SOF ¶ 94. From there, Defendants concealed and ignored the evidence in order to bring about his arrest. Pl. SOF ¶¶ 101-174.

**Statement No. 96 reads:** In April, 1994, Tony Daniels attended a conference for police agencies on cold case investigations. Daniels was authorized to attend, and planned to discuss the Rostock murder which was unsolved in Normal since the 1970's. NPD Assistant Police Chief Walt Clark suggested that Daniels instead discuss the Lockmiller murder. (Ex. 5, Daniels, pp. 327- 28). Daniels copied the entire Lockmiller file in the NPD, and brought it with him to Florida to discuss the case. Daniels returned with a list of investigative avenues that had been suggested for the case. (Ex. 5, Daniels, pp. 205-06, 330).

**RESPONSE:** This statement is disputed as to the claim that Daniels copied the entire file. He copied certain documents. Daniels Dep. (Pl. Ex. 26) at 205-06.

**Statement No. 97 reads:** According to Daniels, he brought the list from the Florida conference to the May 16, 1994 meeting and suggested they pursue the list before they proceed with Beaman's arrest. (Ex. 5, Daniels, p. 337). According to Daniels, Souk said "I think we've got our guy" in response to the Daniels suggestion. (Ex. 5, Daniels, p. 463). Souk also said that "we went as far as we can with this case. We are going to go ahead and issue a warrant for [Beaman's] arrest." (Ex. 5, Daniels, p. 340).

**RESPONSE:** Undisputed that Daniels stated that Souk made these statements, but Souk did not have the power to control the investigation or to prevent the Defendants from properly investigating the case. While Souk at times made requests to Freesmeyer, he did not "direct his ... investigative strategies." Souk Post-Conviction Dep. (Pl. Ex. 57) at 17.

**Statement No. 98 reads:** Freesmeyer agreed with the decision to proceed against Beaman. Freesmeyer concluded there was probable cause for the arrest and prosecution of Beaman based on the following information developed during the murder investigation. (Ex. 1, Freesmeyer, p. 193; Ex. 8, Freesmeyer Rpt.).

**RESPONSE:** Disputed. There was no basis for probable cause. Each of the Defendants' sub-points is addressed separately:

- a) Beaman's fingerprint was on the murder weapon, the cord of an alarm clock used to strangle Lockmiller. (Freesmeyer, pp. 193, 201);

**RESPONSE:** Mr. Beaman's prints were *not* found on the cord of the alarm clock, which was used to strangle Ms. Lockmiller, or the scissors, which were lodged in her chest. No prints were recovered from either the cord or scissors. Dierker Trial Trans. (Pl. Ex. 56) at 492-95; Dierker Report Jan. 4, 1994 (Pl. Ex. 64).

The body of the alarm clock revealed seven latent prints—two of which were Mr. Beaman's, four of which were Michael Swaine's, and a remaining unidentified print. There is no scientific means by which to "age" fingerprints, so it was impossible to determine when the prints were placed on the body of the clock and the order in which the fingerprints were placed. Dierker Trial Trans. (Pl. Ex. 56) at 485, 512; Souk Grand Jury Trans. (Pl. Ex. 4) at 241; Freesmeyer Dep. (Pl. Ex. 16) at 202-203. Mr. Beaman had previously spent the night at Ms. Lockmiller's apartment and used the clock while at her home. Pl. Dep. (Pl. Ex. 2) at 501-02; *see also* Souk Grand Jury Trans. (Pl. Ex. 4) at 277. This provided, as Souk agreed, "a reasonable alternate explanation for the fingerprints" because there was no scientific evidence to suggest that Mr. Beaman's fingerprints were left on the clock radio at the time of the murder. Souk Dep. (Pl. Ex. 47) at 284, 125. *See also* Daniels Dep. (Pl. Ex. 26) at 522-523; *Beaman*, 229 Ill. 2d at 78 (stating that the "fingerprints on the clock radio . . . were explained by [Mr. Beaman's] relationship with Jennifer").

Defendant Freesmeyer admitted that his view that Mr. Beaman's fingerprint held any significance was based "solely on [his] own interpretation." Freesmeyer Dep. (Pl. Ex. 16) at 203.

b) The crime scene matched something Beaman confessed about during one of the overhears. (Freesmeyer, pp. 195-96). Beaman admitted that one time he pulled a garbage bag out of a garbage can in Lockmiller's apartment to search for evidence of condoms deposited by Swaine or some other Lockmiller lover. (Freesmeyer, p. 210). The police found a garbage bag that had been pulled out of the can and was sitting on the living room couch at the crime scene. (Freesmeyer, pp. 210-11).

**RESPONSE:** Disputed. The removal of the garbage bag and several other features of the crime scene suggested that the crime began as a home invasion. Pl. SOF ¶¶ 9-11. Freesmeyer's theory that Mr. Beaman was searching for condoms because the kitchen wastebasket was disturbed is inconsistent with the fact that the bedroom wastebasket was left undisturbed. Pl. SOF ¶ 119.

Furthermore, fingerprint testing on the garbage bag revealed Ms. Lockmiller's fingerprints and two unidentified fingerprints. Mr. Beaman's fingerprints were not discovered on the bag. No fingerprints were identified from the contents of the garbage. Dierker Trial Trans. (Pl. Ex. 56) at 501-02. Michael Swaine's fingerprints were discovered on the garbage can from which the garbage bag had been taken. *Id.* at 499; Dierker Report Jan. 4, 1993 (Pl. Ex. 64); ISP Crime Scene Report (Pl. Ex. 84) at 2. In short, there was no physical evidence linking Mr. Beaman to any garbage bag or garbage can at the crime scene.

c) The police found voluminous letters Beaman had written Lockmiller, which showed an intense passion for her. Telephone records showed 28 phone calls

from the Lockmiller residence to Beaman's home residence within the days before the murder. (Freesmeyer, p. 193).

**RESPONSE:** The majority of Mr. Beaman's letters to Ms. Lockmiller were written in the summer of 1992, when he first began dating Ms. Lockmiller and over a year before her murder. Pl. Dep. (Pl. Ex. 2) at 200. Only two of the letters were written in 1993; one in March 1993 and the other in early summer 1993. Pl. Trial Trans. (Pl. Ex. 6) at 1668, 1673-74 (describing exhibits 4-B-17 to 4-B-19 and 4-B-20 referring to Lockmiller Letters).

Illinois State Police crime scene technician, Dean Kennedy, located many letters under Ms. Lockmiller's bed from numerous people, including from Stacey ("Bubba") Gates, John Murray, Morgan Keefe, Dean Cauley, Heidi Steinman, and Mr. Beaman, as well as letters that Ms. Lockmiller had written to other people, including to Kris Perry, Michael Swaine, and Bubba Gates. Freesmeyer Police Reports (Pl. Ex. 7) at 7; Lockmiller Letters (Pl. Ex. 83).

d) There was a hole in Beaman's alibi. (Freesmeyer, p. 193).

**RESPONSE:** There was no hole. Mr. Beaman had no opportunity to commit the murder.  
*See* Pl. SOF ¶ 67

e) Beaman had broken down Lockmiller's apartment door to get into her apartment twice before. (Freesmeyer, p. 193).

**RESPONSE:** On both those occasions, Ms. Lockmiller was having sex with other men and attempting to conceal her actions from Mr. Beaman. *See* Swaine Dep. (Pl. Ex. 69) at 77; Pl. SOF ¶ 65.

f) Freesmeyer had asked Beaman several times in interviewed [sic] whether he had any evidence or information that could clear him. Beaman's response was that he had nothing. (Freesmeyer, p. 194)

**RESPONSE:** This statement is disputed in that it implies that Mr. Beaman's response is probative of his guilt. In this same conversation, Mr. Beaman also told Freesmeyer that he would not confess, stating "I didn't do it." Freesmeyer Police Reports (Pl. Ex. 7) at 33.

g) Freesmeyer asked Beaman several times whether he had gone anywhere after he got off work the morning of the murder. Beaman said he did not. In reality, Beaman had gone to a bank in Rockford that morning. A video from the bank showed Beaman in the bank at 10:11 a.m., when Beaman had told the police he got off work at 9:00 a.m., and went straight to bed. (Freesmeyer, pp. 194, 200).

**RESPONSE:** Mr. Beaman's presence at the Bell Federal Savings and Loan bank on August 25, 1993 confirms his alibi, *i.e.*, that he was in Rockford, and not Normal, at the time of the murder. *See* Pl. SOF ¶¶ 130-134; *see also* Freesmeyer Dep. (Pl. Ex. 16) at 200 (admitting that Mr. Beaman's presence at the bank on August 25 "cut both ways" in that it could have been helpful in bolstering Mr. Beaman's alibi).

h) Beaman's attorney had requested and received the videotape from the Rockford bank in September, 1993, so Freesmeyer concluded Beaman was lying when he said he went straight to bed. (Freesmeyer, pp. 194, 199).

**RESPONSE:** Mr. Beaman was not lying—like most college students, he did not memorize every time he went to the bank. Mr. Beaman testified that when his attorney, William Beu, obtained the videotape early in the investigation, “I was not directly involved with what my attorney was doing at that time. I was in Bloomington. My family was in Rockford. They were communicating with my attorney and I was focusing on school. So I was not really even paying attention to what was going on in Rockford.” Pl. Dep. (Pl. Ex. 2) at 374. While Mr. Beaman was away at college, his mother, Carol Beaman, made efforts to retrace Mr. Beaman's steps the week of Ms. Lockmiller's murder. Carol Beaman Dep. (Pl. Ex. 3) at 42-43, 49-50, 56. Mrs. Beaman knew that Mr. Beaman had gone to the bank on August 25th because she prepared the deposits for him the night before and told him to go to the bank after work the following day. Carol Beaman Testimony, Hearing on Second Verified Amended Petition for Post-Conviction Relief (Pl. Ex. 30) at 26-27. Mr. Beaman's defense counsel, Mr. Beu, testified that he obtained the Bell Federal video early in the investigation, while also attempting to retrace Mr. Beaman's steps, using the family's information about Mr. Beaman's whereabouts the week of Ms. Lockmiller's murder. Beu Dep. (Pl. Ex. 49) at 55-56, 156.

Mr. Beu stated that the Bell Federal video did not appear significant to the case until after Mr. Beaman was arrested, when the defense team discovered the State's theory of Lockmiller's time of death. Beu stated that until the trial proceedings began, the investigators were “closed-mouthed with respect to the alleged time of [Lockmiller's]

death.” *Id.* at 157. Beu testified that, as a result, “[t]here was no significance specifically to Bell Federal until we found out whether or not that time [that Mr. Beaman was at the bank] was going to be significant[.]” *Id.* at 75.

- i) Beaman made several suspicious statements on the overhear with Swaine. Beaman said Lockmiller had “dug into him with ounce of sharp silver she had.” Freesmeyer concluded that the statement, not generally used as an expression matched that Lockmiller was stabbed in the chest with silver scissors, which had not been reported when the statement was made. (Freesmeyer, pp. 195-96).

**RESPONSE:** The overhears were exculpatory, not inculpatory. The numerous surreptitious recordings were designed to elicit an admission of guilt, but completely failed to do so. As McCrary stated:

Not only did Mr. Beaman deny knowing anything about the murder, but many of the things he said were inconsistent with being jealous about Ms. Lockmiller’s relationship with Michael Swaine or anyone else, the alleged motive for her murder according to the defendants’ theory. It also refutes the defendant’s hypothesis that Mr. Beaman drove to Normal to rekindle his relationship with Ms. Lockmiller. The statements are especially credible as they occurred in what Mr. Beaman thought was a private conversation with a trusted friend. He had no idea that Mr. Swaine was working as an agent for law enforcement and that he was recording this conversation.

McCrary Report (Pl. Ex. 55) at 12.

- j) Beaman told Swaine on the overhear that he knew Swaine was sleeping with Lockmiller because “that pussy never tasted the same,” which seemed to be a crude reference about somebody he supposedly loved, immediately after her death. (Freesmeyer, p. 196).

**RESPONSE:** While crude, this statement is hardly evidence of murder. *See* item i, immediately above.

k) Beaman told Swaine that Lockmiller was never going to be happy. In Freesmeyer's homicide investigation training, a killer will often say something like that as an effort to justify his action in his own mind. (Freesmeyer, p. 197).

**RESPONSE:** *See* item i above. Furthermore, the ploy used by Defendants and Swaine in the overhears was for Swaine to pretend to be an emotional wreck over the death of a woman he was dating, so that Mr. Beaman would attempt to comfort him. Swaine Dep. (Pl. Ex. 69) at 181. Mr. Beaman told Swaine in this same overhear conversation that Ms. Lockmiller was in "a better place." Pl. Dep. (Pl. Ex. 2) at 516. Mr. Beaman testified that "[n]one of my statements to Michael Swaine [during the overhear]... were ever intended to suggest that Jennifer was better off dead. Michael Swaine expressed deep grieving over her death. He was – appeared to be hurting and very sorrowful and confused about it. And I was trying to comfort him." *Id.* at 513.

l) Beaman told Swaine that "she (Lockmiller) trained me good and she would have trained you just the same." Freesmeyer saw the statement as another justification for his actions. (Freesmeyer, p. 197).

**RESPONSE:** *See* item i above. Mr. Beaman's statement suggested that he was trying to mitigate Swaine's feigned grief over the loss of a love interest.

- m) A fan covered Lockmiller's face, which Freesmeyer saw as fitting a pattern where a person murders someone he knows than cannot face it. (Freesmeyer, p. 203).

**RESPONSE:** In reality, the fan covering the victim's face suggested a home invasion, not a personal crime. Pl. SOF. ¶ 120-121.

- n) Lockmiller was stabbed multiple times after she was already dead. According to the coroner's report Lockmiller died of strangulation. There was no blood spatter at the crime scene which indicated Lockmiller's heart was not pumping when stabbed. It was inconsistent with the act of a random person, and indicated the killer had vengeance as a goal. Lockmiller had hurt Beaman very deeply, and no else was known to have any passionate feelings about Lockmiller. (Freesmeyer, p. 197).

**RESPONSE:** Disputed as to Freesmeyer's belief that the crime scene was "inconsistent with the act of a random person." On the contrary, the nature of the wounds suggested that the killer was a stranger. Pl. SOF ¶¶ 115-116. Freesmeyer has no expertise in crime scene technology or analysis. The Defendants provide no support in the record, other than Freesmeyer's personal opinion, that Ms. Lockmiller was murdered as an act of revenge.

This statement is also disputed as to the claim that "no [one] else was known have any passionate feelings about Lockmiller." See Pl. SOF ¶¶ 16-55.

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- o) There was no forced entry. Valuables lying around the apartment. Her purse was laying right there. A burglar would have taken those things and there would have been a forced entry of some type. (Freesmeyer, p. 211).

**RESPONSE:** There were numerous elements of the scene that pointed to a crime that began as a home invasion. Pl. SOF ¶¶ 9-10. Certain items being left undisturbed was not inconsistent with a home invasion because “[t]here was nothing in the Lockmiller living room that would be irresistible value-wise to a burglar. Jennifer’s purse was on the kitchen table but it was sandwiched between her book bags and not plainly visible.” Moses Report (Pl. Ex. 9) at 4. While there were not obvious signs of forced entry, it would have been entirely possible for a home invader to enter without leaving such signs. *Id.* at 3.

**Statement No. 99 reads:** Souk considered it significant that Beaman’s fingerprints were only found on the clock radio, the murder weapon, and not anywhere else in the apartment. (Ex. 6, Souk, p. 128). Souk considered that there was sufficient evidence to establish probable cause, and a reasonable chance of prevailing at trial. (Ex. 6, Souk, p. 241).

**RESPONSE:** Disputed. Souk stated that because Mr. Beaman had spent the night with Ms. Lockmiller on previous occasions, there was “a reasonable alternate explanation for the fingerprints.” Souk Dep. (Pl. Ex. 47) at 284, 125. *See* Pl. Resp. to Def. SOF ¶ 24.

Moreover, Kennedy, the crime scene technician, did not process Ms. Lockmiller’s entire apartment for fingerprints. Instead, Kennedy collected a set of items from the crime scene suspected to have evidentiary value, and transported them to the Morton Crime Lab for further fingerprint testing. Kennedy Trial Trans. (Pl. Ex. 79) at 236, 238-46. Dierker, the ISP fingerprint

specialist, conducted a more in-depth analysis of the items collected by Kennedy, which included the clock radio (the cord from which was used to strangle Lockmiller), the scissors found lodged in her abdomen, a pink lighter belonging to Ms. Lockmiller, her belt and shoes, the garbage bag from Ms. Lockmiller's bathroom, the garbage bag found on the sofa in her living room, and the garbage can found overturned in her kitchen. Dierker Report Jan. 4, 1994 (Pl. Ex. 64); Dierker Report Jan. 23, 1995 (Pl. Ex. 51). Dierker discovered that Michael Swaine's prints were on the garbage can in the kitchen. Dierker Trial Trans. (Pl. Ex. 56) at 499. Ms. Lockmiller's prints were discovered on the garbage bag in the bathroom, as were a Normal detective's prints and four unidentified prints. *Id.* at 500. Ms. Lockmiller's prints, along with two additional prints that were not identified, were also found on the garbage bag on the sofa in the living room. *Id.* at 501-02. There were no prints found on one of Ms. Lockmiller's shoes, though a set of Kennedy's own prints were discovered on the other shoe. *Id.* at 502-03. The alarm clock revealed seven latent prints—two of which were Mr. Beaman's, four of which were Michael Swaine's, and a remaining unidentified print. *Id.* at 503-504. No latent prints were found on Ms. Lockmiller's belt, her lighter, the scissors, or the electrical cord of the alarm clock with which Lockmiller was strangled. *Id.* at 492-94.

Dierker identified a total of three to four different items at the crime scene that contained unidentified prints. Neither Freesmeyer nor any other detective on the case ran the unidentified prints through a federal, state, or local automated fingerprint indexing system (AFIS). Freesmeyer Trial Trans. (Pl. Ex. 50) at 993.

This statement is disputed also in that it presumes Souk's belief was reasonable. The Defendants never developed any physical evidence implicating Mr. Beaman in Ms. Lockmiller's death; Mr. Beaman never confessed to the crime; and Mr. Beaman did not have the opportunity

to commit the crime. See Pl. SOF ¶¶ 67-74. Throughout the investigation, neither Freesmeyer nor any of the other Normal Police investigators developed any evidence that actually implicated Mr. Beaman in Ms. Lockmiller's murder. Defendant Freesmeyer, Defendant Warner, and Souk agreed that the case against Mr. Beaman was entirely circumstantial. Souk Dep. (Pl. Ex. 47) at 137; Freesmeyer Dep. (Pl. Ex. 16) at 263; Warner Dep. (Pl. Ex. 41) at 149.

**Statement No. 100 reads:** Souk considered that Beaman's motive was based on his intense, passionate love affair with Lockmiller over many months, their stormy relationship, his explosive temper, his acting out on that temper on a number of occasions and Beaman's reaction when approached by the police after Lockmiller's body was found. (Ex. 6, Souk, p. 242). Souk thought Beaman's reaction to Lockmiller's death was very strange for a person with his passionate love and bitterness toward Lockmiller. (Ex. 6, Souk, p. 244).

**RESPONSE:** Disputed. The motive evidence is greatly overstated in this paragraph:

*"Stormy Relationship"*: The relationship was terminated a month prior to the murder by mutual decision. Pl. SOF ¶ 63-64.

*"Explosive Temper"*: Mr. Beaman, in contrast to Murray, was never physically violent toward any individual. See Freesmeyer Dep. (Pl. Ex. 16) at 208; Pl. SOF ¶¶ 65-66.

*"Beaman's Reaction"*: Mr. Beaman never "reacted" to news of Ms. Lockmiller's death in front of investigators because the police deceived him as to the fact that she had been murdered. Pl. Dep. (Pl. Ex. 2) at 312; Carol Beaman Trial Trans. (Pl. Ex. 59) at 1451. Mr. Beaman did not find out Ms. Lockmiller had been killed until Sunday, August 29th, when he was told by his parents, who had learned it from Plaintiff's friend, Don Jones. Pl. Dep. (Pl. Ex. 2) at 313; Carol Beaman Trial Trans. (Pl. Ex. 59) at 1453.

Furthermore, at the time of Ms. Lockmiller's murder, Mr. Beaman was no longer in love with or bitter towards Lockmiller. Following their break-up in July 1993, the two maintained a civil relationship. When Mr. Beaman visited her for the last time in Normal at the beginning of August, Ms. Lockmiller "seemed stable" and the two talked calmly for a short period of time before Mr. Beaman dropped her off at a class and returned home to Rockford. Mr. Beaman stated that when he left Ms. Lockmiller that last time, he "felt good[.]" Pl. Stmt. Aug. 28, 1993 (Pl. Ex. 42) at 13-14. During an initial interview, Swaine told Defendant Freesmeyer that, after they broke up, Mr. Beaman told Ms. Lockmiller that he was over her. Swaine also stated that when Mr. Beaman returned from Ohio, "things were ironed out" between Ms. Lockmiller and Mr. Beaman and Mr. Beaman "seemed ok." Swaine Stmt. Aug. 28, 1993 (Pl. Ex. 44) at 4 or AB001450.

In August, Mr. Beaman began dating again, seeing a woman in Rockford named Beth Terresi. Pl. Trial Trans. (Pl. Ex. 6) at 1737-39, 1821. Mr. Beaman's and Ms. Lockmiller's friend, Josh Whitney, told investigators that after the break-up in early August 1993, Mr. Beaman "seemed to me to be in an overall good mood and he'd finally, he had finally gotten to the point of where he was no longer angry about anything. He sounded like he wanted to try to be just be [sic] friends with Jennifer again. The general thing I got was that he was in a good mood, I hadn't seen in quite awhile." Whitney Stmt. (Pl. Ex. 43) at 3-4.

**Statement No. 101 reads:** Souk thought it significant that Freesmeyer interviewed Beaman's neighbor, Mr. Van Berringer, who said that immediately after Hospelhorn and Daniels interviewed Beaman on August 28, 1993, he came to Van Berringer's house and told Van

Berringer that he (Beaman) had odometer evidence that would clear him for the murder. (Ex. 6, Souk, p. 243).

**RESPONSE:** This statement is disputed as to the claim that the conversation regarding odometer evidence happened “immediately” after Mr. Beaman’s first interview. Van Berringer’s testimony was the subject of a post-trial motion filed on May 3, 1995, following Mr. Beaman’s conviction. Second Supplemental Post-Trial Motion (Pl. Ex 88). At trial, Van Berringer initially and mistakenly testified that, following Ms. Lockmiller’s murder, he had a single conversation with Mr. Beaman between 2:00 a.m. and 2:30 a.m. on August 29, 1993, and that during that conversation, Mr. Beaman disclosed that he recently had his tires changed, that there was a receipt indicating the mileage, and that he had not driven over 300 miles since buying the tires. In fact, Van Berringer and Mr. Beaman had spoken on several occasions between August 29, 1993 and September 3, 1993. *Id.* Van Berringer could not remember during which conversation Mr. Beaman talked about tires and mileage. Van Berringer Affidavit (Pl. Ex. 95).

Subsequent to the verdict, Van Berringer disclosed to Mr. Beaman that that his testimony as to the date and time of their conversation about tires and miles was mistaken. *Id.* Van Berringer executed an affidavit stating his trial testimony was inaccurate, explaining “I became confused during my testimony while Attorney Beu was questioning me.” His affidavit also revealed “long-standing difficulties, documented during my school years, in the areas of auditory retention and conceptualization . . . which may well have contributed to [his] inaccurate testimony under questioning at trial.” *Id.* at 2.

**Statement No. 102 reads:** Souk was aware that someone reported that at some point in time Lockmiller said Beaman threatened to kill her and himself. (Souk, p. 247).

**RESPONSE:** Disputed. Ms. Lockmiller's friends told investigators that Mr. Beaman never threatened to cause or caused physical harm to Ms. Lockmiller. McKeown Stmt. (Pl. Ex. 22) at 10; Minion Stmt. (Pl. Ex. 96) at 7; Haynes Stmt. (Pl. Ex. 81) at 6-7; Corbett Stmt. (Pl. Ex. 92) at 7; Perry Stmt. (Pl. Ex. 87) at 7.

**Statement No. 103 reads:** Souk was aware that Murray was investigated as a possible suspect by the police. Souk read two interviews of Murray's girlfriend, Debbie Mackoway and the recorded interviews of Murray. Souk had to make a determination whether they should continue to investigate Murray and decided they would not. (Souk, p. 258).

**RESPONSE:** Disputed. Souk did not have the power to control the investigation or to prevent the Defendants from properly investigating Murray. While Souk at times made requests to Freesmeyer, he did not "direct his ... investigative strategies." Souk Post-Conviction Dep. (Pl. Ex. 57) at 17.

**Statement No. 104 reads:** Souk read Freesmeyer's long report regarding the case. (Ex. 6, Souk, p. 268). Souk thought significant the in-depth evidence of Beaman and Lockmiller's relationship; Beaman's obsession with her; their relationship difficulties; that Beaman broke her door down twice; Beaman drank fingernail polish remover as a result of a fight with Lockmiller; Beaman had called the police saying Lockmiller was going to kill herself; and a confrontation Beaman had with Swaine at IWU over Lockmiller. (Souk, p. 279).

**RESPONSE:** Disputed. In particular:

- Mr. Beaman was not obsessed with Ms. Lockmiller; they broke up in July 1993, after which Mr. Beaman moved home to Rockford and moved on with his life. *See* Pl. SOF ¶¶ 63-64
- Mr. Beaman drank a small amount of nail polish remover in December 1992, eight months before the murder; Mr. Beaman stated that he and Ms. Lockmiller were having “an argument [] about [another girl] and I was attempting to escape the—the argument. And I did a stupid thing, I drank the nail polish remover, got sick, and that’s that.” Pl. Dep. (Pl. Ex. 2) at 24. Ms. Lockmiller thereafter took Mr. Beaman to the hospital out of concern for Mr. Beaman’s health. *Id.* at 25-27.
- Ms. Lockmiller regularly abused prescription pills and frequently threatened to commit suicide in front of Mr. Beaman. Pl. Stmt. Aug. 28, 1993 (Pl. Ex. 42) at 18, 29; Steinman Stmt. (Pl. Ex. 20) at 19; Revis Stmt. Sept. 3, 1993 (Pl. Ex. 91) at 1-2. In June 1993, Ms. Lockmiller called Mr. Beaman and told him that she had taken 30 pills. Afraid that she was trying to kill herself, Mr. Beaman called 911 and met the ambulance at Ms. Lockmiller’s apartment. When Mr. Beaman arrived, he discovered that Ms. Lockmiller was fine; she told him that she was not killing herself and that he was overreacting. Pl. Dep. (Pl. Ex. 2) at 30-32; Pl. Trial Trans. (Pl. Ex. 6) at 1688-89; BroMenn Report June 24, 1993 (Pl. Ex. 97).
- On July 25, 1993, Mr. Beaman confronted Swaine at the IWU theater where both students worked. Mr. Beaman had previously discovered that Ms. Lockmiller was in a sexual relationship with Swaine. Pl. Dep. (Pl. Ex. 2) at 72-75. At the theater, Mr. Beaman asked Swaine if he was sleeping with Lockmiller. Swaine lied and replied “no, fuck you.” Swaine Stmt. Aug. 29, 1993 (Pl. Ex. 90) at 26; Swaine Dep. (Pl. Ex. 69) at 105, 112. Mr.

Beaman then left the theater, and Swaine chased after him, giving Mr. Beaman the finger. Pl. Dep. (Pl. Ex.2) at 79. After leaving the theater, Mr. Beaman traveled to Ohio for a week with his friend, Jamie Thurman, before returning to Rockford for the rest of the summer. Carol Beaman Grand Jury Trans. (Pl. Ex. 89) at 28; Pl. Trial Trans. (Pl. Ex. 6) at 1808-13.

**Statement No. 105 reads:** Souk considered it significant that when Beaman was questioned by Freesmeyer early in the investigation and was asked about his activities of the week, Beaman immediately began with the day of the murder. (Souk, p. 281).

**RESPONSE:** Disputed. Mr. Beaman testified that he began with Wednesday, August 25th because that day's activities stood out in his mind. On Wednesday, he had an ice cream social at his church, followed by a music rehearsal, and it was the night of that week that he saw Chris Carbone, his college roommate and good friend. Pl. Trial Trans. (Pl. Ex. 6) at 1748, 1854-56.

**Statement No. 106 reads:** Todd Heyse, the owner of 412 Main Street, where Lockmiller lived and the murder occurred, told the police that he saw two people fitting the description of Beaman and Lockmiller around the time of the murder, possibly on the exact day. (Ex. 6, Souk, p. 287). Heyse did not contact the NPD until June 1994, after he saw a picture of Beaman in the paper after Beaman's arrest in May 1994. (Ex. 23, Heyse, p. 80). Seeing the photograph of Beaman jarred his memory of seeing the two people and prompted him to call the police. (Ex. 23, Heyse, p. 79-81).

**RESPONSE:** Disputed. The man Heyse saw did not match Beaman, and he did not observe the two people on the day of the murder. *See* Pl. SOF ¶¶ 69-70.

**Statement No. 107 reads:** Souk thought the evidence ruled out a burglar because there was no forced entry, Lockmiller's books and purse were on the kitchen counter and did not look like they were moved, there was no robbery or disarray of the apartment, Lockmiller's remote and car keys were placed on a counter with the television on as though she had just come in, and there was evidence Lockmiller was dragged into the bedroom. (Ex. 6, Souk, p. 287).

**RESPONSE:** Disputed. The state of the crime scene strongly suggested that the crime began as a home invasion. Pl. SOF ¶¶ 9-10. This statement is also disputed in that an analysis of the crime scene requires expert testimony.

**Statement No. 108 reads:** Souk believed Beaman came to Lockmiller's apartment, got upset when he saw that Swaine had moved in, and killed Lockmiller. (Ex. 6, Souk, p. 288).

**RESPONSE:** Disputed. Mr. Beaman knew Swaine had moved into Ms. Lockmiller's apartment before Mr. Beaman returned to Rockford on August 4, 1993, so a sudden discovery on August 25 that Swaine had moved in with Lockmiller could not have precipitated the crime. Pl. Dep. (Pl. Ex. 2) at 123. Morgan Keefe, Ms. Lockmiller's close friend, told Defendant Warner that Swaine had been living with Lockmiller "for the past maybe three weeks or so," meaning since early August 1993. Keefe Stmt. Aug. 28, 1993 (Pl. Ex. 19) at 4. Swaine also testified that one of his personal belongings, a sign that said "Swaine Street," was hanging up in Ms. Lockmiller's apartment by July 1993. Swaine Trial Trans. (Pl. Ex. 93) at 731; *see also* Swaine Dep. Pl. (Ex. 69) at 124-26. Mr. Beaman saw the Swaine sign in Ms. Lockmiller's living room when he visited her apartment on August 4th. Pl. Dep. (Pl. Ex. 2) at 123, 495. Therefore, even if Mr. Beaman had

visited Ms. Lockmiller's apartment on August 25, the presence of Swaine's belongings would not have surprised him.

**Statement No. 109 reads:** Souk considered Swaine and Gates excluded by alibis. (Ex. 6, Souk, p. 381).

**RESPONSE:** Gates was not, in fact, ever excluded. *See* Pl. SOF ¶¶ 54-55.

**Statement No. 110 reads:** Souk thought that Beaman's motive was the most powerful motive evidence one would ever hear in a court of law. (Ex. 6, Souk, p. 395).

**RESPONSE:** This was closing argument rhetoric. Mr. Beaman had disengaged from the relationship and was doing well. Pl. Resp. to Defs. SOF ¶ 100; Pl. SOF ¶¶ 62-63.

**Statement No. 111 reads:** Souk was the lead prosecutor in Beaman's case. ASA Terri Dimmick was Souk's second chair for the prosecution. (Ex. 6, Souk, pp. 51, 387).

**RESPONSE:** Undisputed.

**Statement No. 112 reads:** Souk presented the case to the grand jury. (Ex. 6, Souk, p. 83). Freesmeyer, Beaman, Beaman's parents, the director of Beaman's church Youth Ministries, Beaman's coworker, and Beaman's employer all testified before the grand jury. The Grand Jury concluded on July 14, 1994 and returned a true bill. (Ex. 14, Grand Jury Transcript). Around January 1, 1995, Freesmeyer would move into the State's Attorney's Office as they began to prepare for the Beaman trial. (Ex. 1, Freesmeyer, p. 52).

**RESPONSE:** The indictment was based on Freesmeyer's concealment of evidence from the grand jury during Souk's examination of him. *See* Pl. SOF ¶¶173-74.

**Statement No. 113 reads:** In Souk's mind, Beaman was the only real suspect. (Ex. 6, Souk, p. 194). Souk concluded after reviewing all the information he had about Murray that he was not a person of interest. (Ex. 6, Souk, p. 373). At the time of Beaman's prosecution, Souk did not believe there was any evidence to suggest that Murray killed Lockmiller. (Ex. 6, Souk, p. 373). Souk did not believe Murray had any motive to kill Lockmiller, even though Souk was aware of their sexual relationship in the year before her death, that Murray gave narcotics and marijuana to Lockmiller, and that there were some conflicting statements about whether Lockmiller owed Murray money for drugs. (Ex. 6, Souk, pp. 165-167). Souk was aware at the time of the prosecution that Murray claimed Lockmiller owed him some small amount of money, about \$20, for drugs. (Ex. 6, Souk, p. 167).

**RESPONSE:** Disputed. Murray was a very likely suspect who beat women, dealt drugs, and lied about his alibi. Pl. SOF ¶¶ 16-44. Indeed, "the strongest suspect was not Alan Beaman, but John Murray." McCrary Report (Pl. Ex. 55) at 22.

**Statement No. 114 reads:** Souk knew at the time of Beaman's prosecution that Murray made a mistake regarding his alibi in his first interview with Daniels and Hospelhorn and corrected it in his second interview. Souk did not consider that to be suspicious. (Ex. 6, Souk, p. 364).

**RESPONSE:** This statement is disputed in that it presumes Murray "made a mistake" as to his alibi in his first interview with police. The evidence suggests that Murray deliberately lied about his alibi, telling police that he was out of town the day of Ms. Lockmiller's murder, until he was

forced to tell the truth after his girlfriend, Deborah Mackoway, informed police that Murray was at his apartment in Normal, IL (located approximately one mile from Ms. Lockmiller's apartment) the day of her death. *See* Pl. SOF ¶¶ 30-34.

**Statement No. 115 reads:** Every felony case prosecuted in the McLean County State's Attorney's Office at the time of Beaman's prosecution went through Souk's desk. (Ex. 6, Souk, p. 394).

**RESPONSE:** Undisputed.

**Statement No. 116 reads:** By the end of 1994, Souk was aware of three charges against Murray, two for possession with intent to deliver, and one for domestic violence. The two drug charges were felonies, the domestic battery case was a misdemeanor. (Ex. 6, Souk, p. 170). Souk knew at the time of Beaman's trial that Murray had a domestic battery charge against him by his girlfriend, Debbie Mackoway (Bluestein). (Ex. 6, Souk, pp. 167-68).

**RESPONSE:** Undisputed.

**Statement No. 117 reads:** Souk was aware at the time of Beaman's trial that Mackoway reported that Murray was taking steroids in January, 1994, and that she did not have problems with Murray before that. Mackoway related that Murray had been acting erratically, which she attributed to Murray taking steroids. (Ex. 6, Souk, pp. 325-26).

**RESPONSE:** Disputed. Murray had been taking steroids since at least January 1993; Murray Arrest Docs. (Pl. Ex. 27) at 93-94, 103-04. Furthermore, while Mackoway did not report being beaten by Murray until January 1994, he had a history of beating other women. Pl. SOF ¶ 28.

**Statement No. 118 reads:** Murray was never physically violent toward Mackoway until January, 1994. She and Murray had been in a peaceful relationship for the previous four years. (Ex. 22, Mackoway (Bluestein), pp. 34-35).

**RESPONSE:** Disputed. *See* Pl. Resp. to Def. ¶ 117.

**Statement No. 119 reads:** See Sealed Addendum.

**Statement No. 120 reads:** See Sealed Addendum.

**Statement No. 121 reads:** The state subpoenaed Murray for the Beaman trial and he was on Souk's witness list. (Ex. 6, Souk, p. 387). ASA Dimmick interviewed Murray prior to the trial. (Ex. 6, Souk, p. 388). The state decided not to call Murray. (Ex. 6, Souk, p. 389).

**RESPONSE:** This statement omits the reason why the State decided not to call Murray as a witness at Mr. Beaman's trial. Assistant State's Attorney Teri Dimmick testified that she and Souk believed that, if we "put [Murray] on the stand, we'll definitely have to reveal that he has these two pending [criminal drug and domestic violence cases], and that's going to destroy his credibility." Dimmick Dep. Excerpts (Pl. Ex. 86) at 134-37.

**Statement No. 122 reads:** Souk flagged information in the State's Attorney's file regarding Murray's pending cases so that the Assistant State's Attorney handling those cases, Robert Freitag, would not offer Murray a plea, in case they wanted to call Murray in the Beaman trial. If there was a plea taken in Murray's pending cases, it could have been used to impeach Murray

had the state decided to call him as a witness. (Ex. 6, Souk, pp. 388-89). Souk put a note on that file saying that Murray was a witness in the Beaman case and that Freitag should see Souk before any deals were made with Murray. (Ex. 6, Souk, p. 393; Ex. 15, State's Attorney Case File).

**RESPONSE:** Undisputed.

**Statement No. 123 reads:** Souk did not consider the face of the polygraph to indicate any wrongdoing or effort to deceive by Murray. (Ex. 6, Souk, p. 440).

**RESPONSE:** Disputed. Murray's behavior on the polygraph suggested purposeful evasion. *See* Pl. SOF ¶¶ 36-39.

**Statement No. 124 reads:** Souk was not surprised that the McLean County State's Attorney chose not to re prosecute Beaman, because 13 years had passed since the trial, and it would be a monumental effort on the part of police and prosecutors to gather up all of the witnesses and evidence again. (Ex. 6, Souk, p. 66).

**RESPONSE:** Disputed. Souk was not involved in the decision not to prosecute Mr. Beaman a second time. Souk Dep. (Pl. Ex. 47) at 63. The decision not to prosecute Mr. Beaman again reflected the fact that there never had been real evidence against him. When the decision was made by the McLean County States Attorney's Office, the unanimous decision of the Illinois Supreme Court had concluded that there was nothing but "tenuous . . . circumstantial evidence against [Mr. Beaman]." *People v. Beaman*, 229 Ill. 2d 56, 81 (2008).

Respectfully submitted,

ALAN BEAMAN

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**CERTIFICATE OF SERVICE**

I, David M. Shapiro, an attorney, certify that I caused the foregoing document to be served upon:

Thomas G. DiCianni  
Lucy B. Bednarek  
Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer, P.C.  
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by electronic transmission and by placing the same in a properly addressed, postage pre-paid envelope for delivery by U.S. Mail before the hour of 5:00 p.m. on Tuesday, December 15, 2015.

s/David M. Shapiro

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL  
MCLEAN COUNTY, ILLINOIS

ALAN BEAMAN,

Plaintiff,

v.

TIM FREESMEYER, Former Normal Police  
Detective; DAVE WARNER, Formal Normal  
Police Detective; FRANK ZAYAS, Former  
Normal Police Lieutenant; and TOWN OF  
NORMAL, ILLINOIS,

Defendants.

No. 14 L 51

FILED  
JAN 22 2016  
CIRCUIT CLERK  
MCLEAN COUNTY

**TOWN OF NORMAL DEFENDANTS' RESPONSE TO PLAINTIFF'S STATEMENT OF  
MATERIAL FACTS**

The Town of Normal Defendants, by and through their attorneys, Ancel Glink Diamond Bush DiCianni & Krafthefer, P.C., respond to Plaintiff's Statement of Material Facts as follows:

**I. CERTIFICATE OF INNOCENCE**

1. Alan Beaman was declared innocent of the murder of Jennifer Lockmiller by the Circuit Court for the Eleventh Judicial District on April 29, 2013. Certificate of Innocence (Pl. Ex. 1) at 1-2. The Certificate of Innocence states that Mr. Beaman "is innocent of the offenses charged in the indictment." *Id.* at 1.

**RESPONSE:** Undisputed but immaterial. Alan Beaman's receipt of a certificate of innocence 18 years after he was convicted of murdering Jennifer Lockmiller is immaterial because evidence developed during the murder investigation about Beaman provided probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). Moreover, under 735 ILCS 5/2-702(j), any finding made in a Certificate of Innocence proceeding has no impact in this civil proceeding.

2. Five years earlier, on May 22, 2008, the Supreme Court of Illinois ordered Mr. Beaman's conviction vacated in a unanimous opinion based on the State's failure to disclose

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exculpatory evidence. *People v. Beaman*, 229 Ill. 2d 56, 81 (2008). This decision came after Mr. Beaman more than a dozen years incarcerated for a crime he did not commit.

**RESPONSE:** The first sentence of paragraph 2 is undisputed but immaterial. The Illinois Supreme Court's decision to vacate Beaman's conviction 13 years after he was convicted of murdering Jennifer Lockmiller is immaterial because evidence developed during the murder investigation about Beaman provided probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). The second sentence of paragraph 2 is disputed. Defendants contest plaintiff's assertion that Beaman did not murder Jennifer Lockmiller. (Def. St. Facts ¶¶1, 98-110).

## II. ALAN BEAMAN

3. Aside from his wrongful conviction, Mr. Beaman has never been convicted of a crime. Pl. Dep. Dec. 14, 2012 (Pl. Ex. 2) at 408-10.

**RESPONSE:** It is undisputed that Beaman has only been convicted of the murder of Jennifer Lockmiller but this fact is immaterial because evidence developed during the murder investigation about Beaman provided probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

4. With his parents and older brother, Mr. Beaman spent a quiet childhood in Rockford, Illinois. His mother taught math at the local high school; his father was an engineer. Carol Beaman Dep. (Pl. Ex. 3) at 97, 293. Mr. Beaman was the best man at his older brother's wedding, worked summers at his uncle's grocery store, and joined his family every night at the dinner table. Pl. Dep. Dec. 14, 2012 (Pl. Ex. 2) at 163-64, 175, 178. They worshipped at the local Methodist church and were active members of the congregation. Souk Grand Jury Testimony (Pl. Ex. 4) at 3-5. He attended bible study classes and was described by his youth minister as an

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“interested, curious student.” Continued Hearing on Second Verified Amended Petition for Post-Conviction Relief January 14, 2005 (Pl. Ex. 5) at 37. *Id.* at 160.

**RESPONSE:** The first sentence of paragraph 4 is not supported by a citation to the record and is therefore disputed. The remaining alleged facts set forth in paragraph 4 are undisputed but immaterial because the evidence developed during the murder investigation about Beaman provided probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

5. Music was an important part of Mr. Beaman’s life; for as long as he could remember he had been singing, and in the sixth grade he took up the saxophone. Pl. Trial Trans. (Pl. Ex. 6) (Part I) at 1651. In high school, he played in the jazz band and was part of his high school’s marching band. *Id.* at 1652. He often played guitar and saxophone at church and was described by his pastor as “[a] natural in music.” Olson Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief January 14, 2005 (Pl. Ex 5) at 37.

**RESPONSE:** Undisputed but immaterial because the evidence developed during the murder investigation about Beaman provided probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

6. As a high school senior, Mr. Beaman discovered the theater. He designed the lighting for a school play, which sparked an interest in the production side of the stage. Pl. Dep. Dec. 14, 2012 (Pl. Ex. 2) at 16. He decided to attend Illinois Wesleyan University in Bloomington, where he became a theater major. *Id.* at 13. Before long, he was taking an active role in university and community theater productions, both in Rockford and Bloomington. He played guitar, appeared in one-act plays, and worked on the production side. *Id.* at 14.

**RESPONSE:** The first and fourth sentences of paragraph 6 are not supported by citations to the record and therefore defendants dispute them. The remaining sentences in paragraph 6 are

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undisputed but immaterial because evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

7. Mr. Beaman's college career was cut short at the end of his senior year, when he was arrested for the murder of his former girlfriend, Jennifer Lockmiller, and incarcerated for over a dozen years. Freesmeyer Police Reports (Pl. Ex. 7) at 49.

**RESPONSE:** Paragraph 7 contains improper argument with regard to Beaman's college career. It is undisputed that Beaman was arrested for the murder of Jennifer Lockmiller and incarcerated for over a dozen years.

### **III. THE VAST UNIVERSE OF POTENTIAL KILLERS**

#### **A. Unidentified Potential Killers**

8. Defendant Frank Zayas, the head of the Normal Police Department Criminal Investigation Division, testified Lockmiller murder could have been committed by a large universe of potential suspects: "In a college town, I mean, there's so many possibilities." Zayas Dep. (Pl. Ex. 8) at 90. Zayas elaborated as follows:

A. The transient nature of the campus. The activities during the day and night, you know. A lot of parties. Kids are always out, all hours of the night and day. The crime scene is on – right on a main thoroughfare, Route 51 ... [I]t was kind of like an open case. We – we had no idea where to go.

....

Q. So there were a lot of different factors that pointed to a potentially broad range of suspects, right?

A. Yes, sir, it did.

*Id.* at 90-92.

**RESPONSE:** The first sentence of paragraph 8 contains improper argument and is not supported by a citation to the record. As a result, defendants dispute it. It is undisputed that Zayas testified as set forth in paragraph 8, but these alleged facts are immaterial. Enough evidence developed

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during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

9. The crime scene suggested that the murder began as a home invasion. Moses Report (Pl. Ex. 9) at 2. Kenneth Moses, Plaintiff's expert in crime scene investigation, has 40 years of experience in the analysis of forensic evidence. Moses CV (Pl. Ex. 10) at 1. According to Moses, features of the scene that matched the profile of a home invasion include: the time of the murder, the weakened condition of Ms. Lockmiller's lock, the apartment's location on the top floor of the building, the location of the victim's shoe and earring, the positioning of the body, the placement of a floor fan over the victim's face, the wound pattern on the body, the apparent removal of a bag from the kitchen wastebasket, the apartment's general state of disarray, and food items left on the kitchen counter. Moses Report (Pl. Ex. 9) at 2-4.

**RESPONSE:** It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 9 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. Further, defendants dispute the crime scene suggested that a murder began as a home invasion. (Def. St. Facts ¶98-110).

10. A close friend testified that Ms. Lockmiller kept a clean apartment, and that the mess depicted in the crime scene photos was inconsistent with the victim's habits. Hartman Dep. (Pl. Ex. 11) at 29, 36. One crime scene photo was inconsistent with the typical state of the apartment because it showed a calendar on the floor and a cooking pot out on a desk. Hartman Dep. (Pl. Ex. 11) at 34; Crime Scene Photo, Ex. 8 in Hartman Dep. (Pl. Ex. 12). Another photo, which showed a pot on the stove and a mess of food out on the kitchen counter, was "really atypical" in light of Ms. Lockmiller's habits. Hartman Dep. (Pl. Ex. 11) at 30-31; Crime Scene

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Photo, Ex. 6 in Hartman Dep. (Pl. Ex 13). Burglars often eat and drink their victims' food and dishevel their homes by rummaging around. Moses Report (Pl. Ex. 9) at 3, 4.

**RESPONSE:** The first sentence of paragraph 10 is disputed. Lockmiller's friend Morgan Hartman (Keefe) testified that she could only give an opinion about Lockmiller's apartment on the weekends, when Hartman was there. (Pl. Ex. 11 at 29). She also testified that Lockmiller, like all college students, was a little messy. (Pl. Ex. 11 at 30). The second and third sentences of paragraph 10 are not supported by the citation to the record and are therefore disputed. In addition, Hartman testified that she could only give an opinion about Lockmiller's apartment on the weekends, when Hartman was there. (Pl. Ex. 11 at 29). It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 10 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. Defendants also dispute that the crime scene suggested a burglary. (Def. St. Facts ¶98-110).

11. Jennifer Lockmiller's lifestyle—in particular, frequent drug abuse and multiple sexual partners—brought her into contact with a large and shifting group of dangerous individuals. Brown Dep. (Pl. Ex. 14) at 151-52, 216 (Ms. Lockmiller "liked drugs" and "was always asking for pills," especially Percodan and Darvocet; Belcher Dep. (Pl. Ex. 15) at 139, 142-43 (Ms. Lockmiller had several sources of cocaine and would ask people she had just met for pills).

**RESPONSE:** The statements in paragraph 11 contain improper argument and are not supported by citations to the record. As a result, defendants dispute them. It is undisputed Brown and Belcher testified as set forth in paragraph 11, but these alleged facts are immaterial because

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enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

12. Defendant Timothy Freesmeyer knew that Ms. Lockmiller drank a lot, frequently used drugs, drank and did drugs with several different people, got drugs from a number of different sources, and had multiple sexual partners. Freesmeyer Dep. (Pl. Ex. 16) at 263-64. Freesmeyer did not know whether the investigation excluded the possibility that the murderer was a drifter or unknown sexual partner and could recall no effort to look for drifters or unknown sexual partners who could have committed the murder. *Id.* at 264-65.

**RESPONSE:** It is undisputed that Freesmeyer testified as set forth in paragraph 12. However, these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). In addition, that a drifter or unknown sexual partner was not excluded is disputed. Freesmeyer testified that: "I felt we did everything we could in the case to look at the evidence, to look at prints, to look at DNA statements, swabs, whatever. The door was not broken into. There was no forced entry into the apartment. There was telltale signs of things that Alan had done. And, therefore, I don't recall that we made a widespread effort to look for drifters or homeless people in the area." (Def. St. Fact Ex. 1, at 264).

13. On August 21, four days before the murder, Ms. Lockmiller went to various bars with her friends, Morgan Keefe and Kelly Hamburg. At one of the bars, "Spanky's," Lockmiller met a stranger whom Hamburg described as "a long haired guy." Hamburg Interview (Pl. Ex. 17) at AB001654-55. Keefe described this encounter as follows:

Jen is kind of the queen of scamming drinks off of guys. She kind of flirts, you know, and whatever and he bought her a bunch of drinks and then he suggested going to a party afterwards . . . Jen didn't want to go. She just basically wanted drinks from him and

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then we kind of walked off and . . . I had forgotten about it until Tuesday when we went to the movie she said that that particular guy had called.

Keefe Interview, Sept. 10, 1993 (Pl. Ex. 18) at 6-7. The man with long hair called Ms. Lockmiller on Monday, August 23, two days before the murder. He asked Ms. Lockmiller on a date and was rebuffed. Keefe Interview, Aug. 28, 1993 (Pl. Ex. 19) at 10. *See also* Keefe Interview, Sept. 10, 1993 (Pl. Ex. 18) at 21. This man “kept calling” Ms. Lockmiller. Steinman Interview (Pl. Ex. 20) at 8.

**RESPONSE:** It is undisputed that Hamburg and Keefe gave these statements to the police and Steinman testified as set forth in paragraph 13, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

14. When Keefe, Hamburg, and Lockmiller left Spanky’s and were en route to another bar, they encountered two other men. Hamburg Interview (Pl. Ex. 17) at AB001655-56. Lockmiller spoke with the two men for approximately ten minutes. *Id.* One of the men gave Lockmiller his phone number, writing it on a piece of paper with lipstick that he borrowed from Keefe. *Id.* at AB001656; Keefe Interview, Sept. 10, 1993 (Pl. Ex. 18) at 21. Lockmiller threw the piece of paper with the man’s phone number away. *Id.*

**RESPONSE:** It is undisputed Keefe gave these statements to the police but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

15. On the day before the murder, Hamburg encountered these men again. Hamburg Interview (Pl. Ex. 17) at AB001656. They asked Hamburg why Lockmiller had not called them, and one of them told Hamburg to have Lockmiller call him. *Id.*

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**RESPONSE:** It is undisputed that Hamburg gave these statements to the police but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

**B. Known Paramours With Motives To Murder Ms. Lockmiller**

16. John Murray had an on-again, off-again sexual relationship with Jennifer Lockmiller. Steinman Interview (Pl. Ex. 20) at 8; Murray Interview, Sept. 2, 1993 (Pl. Ex. 21) at 16, 21. At the time of her death, he was seeking to rekindle his relationship with her. Steinman Interview (Pl. Ex. 20) at 8; McKeown Interview Excerpts (Pl. Ex. 22) at 4-5; *Beaman*, 229 Ill. 2d at 67. After Ms. Lockmiller's murder, Murray bragged to police: "[S]he completely like wanted to go out with me still. Like if she was alive today she would be calling me wanting to go back out with me." Murray Interview, Sept. 2, 1993 (Pl. Ex. 21) at 16.

**RESPONSE:** The first sentence of paragraph 16 is undisputed. It is undisputed that Steinman and McKeown made the statements in the second sentence to the police but their opinion about Murray's intent with regard to Lockmiller is improper hearsay and immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). In addition, citing to the *Beaman* case is improper evidentiary support. The third sentence contains improper argument with regard to the use of the word "bragged" and is therefore disputed. It is undisputed that Murray made the quoted statement to the police in the third sentence but it is immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

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17. During his deposition in this case, Murray invoked his Fifth Amendment right against self-incrimination in response to all questions regarding his involvement in the Lockmiller murder:

Q. Were you involved in the homicide of Jennifer Lockmiller?

A. I'm asserting my Fifth Amendment privilege.

Q. Can you tell me anything at all about whether you were involved in the homicide of Jennifer Lockmiller?

A. I'm asserting my Fifth Amendment privilege.

Q. Are you asserting your Fifth Amendment privileges to any questions that would be asked regarding the homicide of Jennifer Lockmiller?

A. Yes, I am asserting my Fifth Amendment privilege.

Q. Do you know who killed Jennifer Lockmiller?

A. I'm asserting my Fifth Amendment privilege.

Murray Dep. (Pl. Ex. 23) at 18-19.

**RESPONSE:** It is undisputed that Murray testified as set forth in paragraph 17, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

18. The crime scene suggested that the murder would have required a person who, unlike Mr. Beaman, was of "considerable strength and power to maintain complete control over Jennifer up through wrapping the electrical cord around her neck." Moses Report (Pl. Ex. 9) at 3.

**RESPONSE:** It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 18 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial because the evidence developed during the murder investigation about Beaman provided probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

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19. At the time of the Lockmiller murder, Murray was a frightening, physically imposing man. Kuyper Dep. (Pl. Ex. 24) at 63, 65, 117 (stating that Murray “was big. He was big and long, curly dark hair and just – I don’t know how to say it more than he was kind of a scary person”; describing Murray as “someone that could be explosive in his anger”; agreeing that Murray was “physically large” and “scary”).

**RESPONSE:** The first sentence of paragraph 19 is improper argument and an improper characterization of Murray’s appearance. As a result, defendants dispute it. It is undisputed that Kuyper testified as quoted in the second sentence but Kuyper’s opinion about Murray is immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

20. Murray was also a drug dealer, and he sold drugs to Ms. Lockmiller. Murray Stmt. Sept. 8, 1993 (Pl. Ex. 25) at 14-15.

**RESPONSE:** Undisputed.

21. At the time of her death, Ms. Lockmiller owed Murray money for drugs. *Id.* at 14. Although Murray’s story was that Ms. Lockmiller owed him approximately \$20, *id.*, Detective Daniels testified that Ms. Lockmiller’s debt indicated that there may “have been other instances where the amount of money that she owed him could have been greater,” and that the fact that there had been financial transactions between Ms. Lockmiller and Murray with respect to illegal substances might have been a motivating factor in Ms. Lockmiller’s homicide. Daniels Dep. (Pl. Ex. 26) at 538-39. This could have contributed to his motive to kill Ms. Lockmiller. *Id.* at 53839; *Beaman*, 229 Ill. 2d at 67.

**RESPONSE:** It is undisputed that Murray told the police Lockmiller owed him \$20. It is also undisputed that Daniels testified as set forth in paragraph 21, but these alleged facts are

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immaterial because Daniels admitted there was no evidence Lockmiller owed Murray any amount over \$20. (Def. St. Facts Ex. 5, at 707-708). Therefore, Daniels was only speculating. Moreover, enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). Finally, citing to the *Beaman* case is improper evidentiary support.

22. John Murray beat women. On October 7, 1994, Murray beat his girlfriend, Deborah Mackoway. Mackoway told police officers that she was “the victim of physical abuse” at Murray’s hands “on a continual basis.” Murray Arrest Docs. (Pl. Ex. 27) at 1. Murray “pinned [Mackoway] down on the floor ... and elbowed her repeatedly in the chest.” *Id.* at 1-2. “A friend of Mackoway ... was present and did verify that there was a prominent red mark between Mackoway’s breasts where she had been elbowed.” *Id.* at 2.

**RESPONSE:** The first sentence of paragraph 22 is improper argument and not supported by a citation to the record. As a result, defendants dispute it. It is undisputed the records reflect Mackoway made the statements to the police as set forth in paragraph 22; however, these alleged facts are immaterial. The incident between Murray and Mackoway occurred in 1994 – over one year after Lockmiller’s murder. In addition, enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

23. Also on October 7th, Mackoway “reported that there was another argument the night before in which [Murray] grabbed her and scratched her right wrist and caused a bruise on her left arm. Both injuries were evident. She also reported that in the last week she received a bruise to her upper left thigh. She showed this bruise to [police].” *Id.* at 3. Murray was arrested for domestic battery and taken to the McLean County Jail. *Id.*

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**RESPONSE:** It is undisputed the records reflect Mackoway made the statements set forth in paragraph 23 to the police but these alleged facts are immaterial. The incident between Murray and Mackoway occurred in 1994 – over one year after Lockmiller’s murder. In addition, enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

24. According to Detective Daniels, the information about Murray beating Mackoway was particularly significant because of the manner in which Murray attacked Mackoway – he elbowed her repeatedly in the chest, just as Lockmiller was stabbed in the chest with a scissors. Daniels Dep. (Pl. Ex. 26) at 552.

**RESPONSE:** It is undisputed that Daniels testified as set forth in paragraph 24, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

25. On October 11, 1994, Mackoway filed a Petition for Order of Protection against Murray in the Eleventh Judicial Circuit. Murray Arrest Docs. (Pl. Ex. 27) at 68-78. In the Petition, Mackoway stated that Murray had been experimenting with “street ‘steroid’ injections,” and that as a result of the steroid use, Murray’s “behavior since has been unexplainable.” *Id.* at 69. She reported that Murray repeatedly inflicted “bruises/injuries including a black eye.” *Id.*

**RESPONSE:** It is undisputed the records reflect that Mackoway made the statements set forth in paragraph 25, but these alleged facts are immaterial. The incident between Murray and Mackoway occurred in 1994 – over one year after Lockmiller’s murder. In addition, enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

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26. The court found that Mackoway was “abused within [the Domestic Violence Act]” and entered an emergency order of protection against Murray. Murray Arrest Docs. (Pl. Ex. 27) at 61.

**RESPONSE:** It is undisputed the records reflect the alleged facts set forth in paragraph 26, but these alleged facts are immaterial. The incident between Murray and Mackoway occurred in 1994 – over one year after Lockmiller’s murder. In addition, enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

27. Murray had also been using steroids in 1993, the year Ms. Lockmiller was killed. In January of 1993, a search of Mr. Murray’s apartment uncovered drugs that included cocaine and steroids. Murray Arrest Docs. (Pl. Ex. 27) at 145. Murray admitted that he had purchased fifteen vials of steroids and had used eleven of them. *Id.* at 104.

**RESPONSE:** It is undisputed the records reflect the alleged facts set forth in paragraph 27, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

28. Murray was violent toward other women as well. He confessed to the polygraph examiner in the Lockmiller homicide investigation that he had slapped a girlfriend four years earlier. McCann Dep. (Pl. Ex. 28) at 176. Leigh Kuyper believed that Mr. Murray “had been violent with” a friend of hers with whom Kuyper worked at a library. Kuyper Dep. (Pl. Ex. 24) at 63.

**RESPONSE:** The first sentence of paragraph 28 is improper argument and not supported by a citation to the record. As a result, defendants dispute it. It is undisputed that McCann and Kuyper

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testified as set forth in the second and third sentences but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

29. During his deposition, Murray refused to answer any questions about his history of beating women, asserting the Fifth Amendment. Murray. Dep. (Pl. Ex. 23) at 22-23.

**RESPONSE:** Paragraph 29 contains improper argument and is in an improper characterization of Murray's testimony and the questions asked of Murray at his deposition. As a result, defendants dispute it. It is undisputed that Murray asserted the Fifth Amendment privilege but this fact is immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

30. During the Lockmiller homicide investigation, Murray lied to investigators about several matters, including his whereabouts on the day of the murder. During his first interview with police, Murray claimed that he had left Normal and driven home to the area of Rockford at 3:00 p.m. on August 24, the day before the murder. Murray Interview Sept. 2, 1993 (Pl. Ex. 21) at 5. Murray claimed that he did not return to Normal until September 1. *Id.*

**RESPONSE:** The first sentence of paragraph 30 is improper argument and an improper characterization of Murray's statements to the police. (Pl. Ex. 21). As a result, defendants dispute it. The second and third sentences are undisputed.

31. Following this interview with Murray, investigators spoke with Deborah Mackoway. Mackoway told investigators that Murray did not leave for Rockford until after 4:20 p.m. on August 25, the day of the murder. Mackoway Interview Sept. 8, 1993 (Pl. Ex. 29) at AB001715. Furthermore, on August 25, Murray was alone in his apartment between the time

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when Mackoway left for work in the morning and 2:00 p.m., when she returned from work. *Id.* at AB001715-16.

**RESPONSE:** Undisputed.

32. After interviewing Mackoway, investigators spoke with Murray a second time. Murray confessed that the information he provided in his first interview was not true; that he in fact was in his apartment in Normal on the day of the murder; that, on that day, he was alone beginning at 6:30 a.m. when Mackoway left for work; and that he did not leave for Rockford until late afternoon or early evening of August 25. Murray Interview, Sept. 8, 1993 (Pl. Ex. 25) at 4-6.

**RESPONSE:** The first sentence of paragraph 32 is undisputed. The second sentence of paragraph 32 contains improper argument and an inaccurate characterization of Murray's statements to the police as a "confession." Therefore, defendants dispute it. The remaining portions of the compound second sentence of paragraph 32 are undisputed.

33. At the time of the Lockmiller murder, Murray "resided in Bloomington... approximately 1.5 miles from Jennifer's apartment." *Beaman*, 229 Ill. 2d at 67; Daniels Testimony, Hearing on Second Verified Amended Petition for Post-Conviction Relief, December 15, 2004 (Pl. Ex. 30) at 123.

**RESPONSE:** Undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution.

34. These shifting claims by Murray as to his whereabouts on the day of the murder elevated suspicion that he committed the crime. Daniels Dep. (Pl. Ex. 26) at 534-35. A suspect's putting forth a false alibi is "a red flag." Hospelhorn Dep. (Pl. Ex. 31) at 157.

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**RESPONSE:** The first sentence of paragraph 34 is improper argument and an improper characterization of Murray's statements to the police as "shifting claims." Therefore, that characterization is disputed. It is undisputed that Daniels testified that suspicions were elevated after Murray's interviews but that testimony is immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). It is undisputed that Hospelhorn testified as set forth in the second sentence of paragraph 34, but these alleged facts are immaterial for the same reason.

35. Murray was also dishonest regarding several other matters during his interviews with police:

- a. *Drug Transactions with Ms. Lockmiller:* Murray told investigators in the first interview, "I am not sure where [Jennifer Lockmiller] got the marijuana from." Murray Interview Sept. 2, 1993 (Pl. Ex. 21) at 10. In the second interview, he admitted that he sold her drugs, including marijuana. Murray Interview Sept. 8, 1993 (Pl. Ex. 25) at 14-15.
- b. *Attempts to Collect Payment for Drugs from Ms. Lockmiller:* During the first interview, Murray claimed in a recent encounter he had with Jennifer and another love interest of hers, the three of them "just talked, you know about you know partying." Murray Interview Sept. 2, 1993 (Pl. Ex. 21) at 4. During the second interview, however, Murray confessed that Lockmiller drove over because Lockmiller owed Murray money for drugs. Murray Interview Sept. 8, 1993 (Pl. Ex. 25) at 1, 14.
- c. *Sex with Ms. Lockmiller:* During the first interview, Murray told investigator he and Ms. Lockmiller were just "talking all night" on a night when Mr. Beaman kicked down the door to Ms. Lockmiller's apartment. Murray Interview Sept. 2, 1993 (Pl. Ex. 21) at 8. Later in the same interview, he confessed that he had sex with Ms. Lockmiller that night. *Id.* at 16. *See also* Daniels Dep. (Pl. Ex. 26) at 537-38 (Murray gave evasive answers with regard to his sexual relationship with Ms. Lockmiller).

**RESPONSE:** The first sentence of paragraph 35 is improper argument and not supported by a citation to the record. Therefore, defendants dispute it.

Paragraph 35(a): Paragraph 35(a) is disputed because it is a misleading characterization of Murray's statement to the police. Murray told the police he only provided marijuana to

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Lockmiller “once in awhile” so was not sure where she purchased it on other occasions, as he stated in his first interview with the police. (Pl. Ex. 21, at 10; Pl. Ex. 25, at 14-15).

Paragraph 35(b): The first sentence of paragraph 35(b) is undisputed and material. The second sentence is disputed because it is not supported by the record. Murray did not tell the police at this time that Lockmiller owed him money for drugs – only that she owed him a “little bit of money” and also mischaracterizes his statement to the police as a confession. (Pl. Ex. 25, at 1).

Paragraph 35(c): The first sentence of paragraph 35(c) is undisputed. The second sentence contains improper characterization of Murray’s statement as a “confession.” Therefore, defendants dispute it. The remaining portion of the second sentence is undisputed. It is undisputed that Daniels testified as set forth in the third sentence but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

36. Murray also failed to comply with a polygrapher’s instructions during a polygraph examination administered to him in connection with the Lockmiller killing on September 30, 1993. Murray Polygraph Docs. (Pl. Ex. 32) at 2. The questions included, among others, “[a]bout August 25, 1993, did you strangle Jennifer Lockmiller at her apartment?” McCann Post-Conviction Hearing Testimony (Pl. Ex. 33) at 154. The polygrapher’s report stated:

Throughout the course of his polygraph examination, the subject did not follow specific directions given to him which are necessary for the proper completion of a polygraph examination. After being advised several times to follow directions, the subject informed this examiner that he was not able to comply. Subsequently, the subject was dismissed from this laboratory.

Murray Polygraph Docs. (Pl. Ex. 32) at 2.

**RESPONSE:** Undisputed.

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37. During the incomplete polygraph examination, Murray took nineteen deep breaths and a gulp. McCann Dep. (Pl. Ex. 28) at 171-72. Each of these nineteen deep breaths caused a disruption to the examination. *Id.* at 173. During this process, McCann admonished Murray six times to stop taking deep breaths, but Murray continued to do so. *Id.* at 172-73. Murray sometimes failed to comply with McCann's instructions to answer the questions "yes" or "no." *Id.* at 174-75. Murray also smoked marijuana two days before the polygraph and may have done so to foil the examination. *Id.* at 180-81.

**RESPONSE:** The first four sentences of paragraph 37 are undisputed. The fifth sentence is disputed because it is not supported by the cited record and is an improper characterization of McCann's testimony. While McCann testified that Murray told him that he had taken drugs two days before the polygraph exam, McCann then only testified as follows: "Q: Is there anything available to you that would enable you to rule out the possibility that Mr. Murray took marijuana shortly before the examination in order to thwart it? A: No." (Pl. Ex. 28, at 181).

38. The polygraph examiner testified that refusing to comply with instructions could have been a strategy to deliberately thwart the examination:

Q. And that response, the response of not following directions, not sitting still, that can be an intentional response on behalf of a suspect; isn't that true?

A. It could be.

**RESPONSE:** The first sentence of paragraph 38 is disputed. McCann did not conclude that Murray intentionally prevented a result to deceive the examiner. (Pl. Ex. 28, at 198-99). It is undisputed McCann testified as set forth in the remaining sentences of paragraph 38, but these alleged facts are immaterial because McCann did not conclude Murray intentionally prevented a result to deceive the examiner.

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39. Detective Daniels, during his two lengthy interviews of Murray, did not notice any behavior that suggested Murray would be unable to sit still for a polygraph examination. Daniels Dep. (Pl. Ex. 26) at 541-43. To Daniels, Murray's failure to cooperate with the polygraph examination was an indication that he needed to be investigated further. *Id.* at 546.

**RESPONSE:** It is undisputed that Daniels testified as set forth in the first sentence of paragraph 39, but these alleged facts are immaterial. McCann did not conclude that Murray intentionally prevented a result to deceive the examiner. (Pl. Ex. 28, at 198-99). The second sentence of paragraph 39 is undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). In addition, Souk made the determination not to continue to investigate Murray. (Def. St. Facts Ex. 6, at 258).

40. During his recent deposition in this case, Murray refused to answer questions about defying the polygrapher's instructions and attempting to foil the examination, asserting the Fifth Amendment. Murray Dep. (Pl. Ex. 23) at 19-20.

**RESPONSE:** Paragraph 40 contains improper argument and an improper characterization of the questions and answers at Murray's deposition. As a result, defendants dispute it. It is undisputed that Murray asserted the Fifth Amendment but this fact is immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

41. In October of 1994, Freesmeyer signed the police reports regarding Murray's arrest on a domestic violence charge. Freesmeyer Dep. (Pl. Ex. 16) at 107-09. He affixed his signature to such police reports at least twelve times. Murray Arrest Docs. (Pl. Ex. 27) at 1-160.

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**RESPONSE:** Undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). In addition, Beaman's attorneys Beu and Reu knew Murray had a criminal history prior to trial and how to get Murray's criminal records if they wanted them. (Pl. Ex. 49, at 97, 110, 118, 151).

42. These reports included the details cited above, *see* ¶¶ 22-27, *supra*, including the fact that Mackoway was "the victim of physical abuse" at Murray's hands "on a continual basis"; that Murray had pinned her to the floor and elbowed her in the chest, leaving "a prominent red mark between Mackoway's breasts,"; and that Murray had battered Mackoway on the previous night as well, leaving "evident injuries." Murray Arrest Docs. (Pl. Ex. 27) at 1-3.

**RESPONSE:** It is undisputed the reports contain these statements but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). In addition, Beaman's attorneys Beu and Reu knew Murray had a criminal history prior to trial and how to get Murray's criminal records if they wanted them. (Pl. Ex. 49, at 97, 110, 118, 151). Further, Freesmeyer testified that the fact that these reports were not disclosed did not concern him because the evidence against Beaman was "overwhelming." (Def. St. Facts Ex. 1, at 111). Freesmeyer also testified that the police deal with domestic battery complaints frequently and "another domestic battery coming through did not raise a red flag in my mind that this should be a concern." *Id.*

43. Freesmeyer read and signed these reports before Mr. Beaman's trial. Freesmeyer Dep. (Pl. Ex. 16) at 109-10. At the time he received the reports, Freesmeyer "was familiar that

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Larbi Murray was being investigated in the [Lockmiller] case.” Freesmeyer Dep. (Pl. Ex. 16) at 114.

**RESPONSE:** The first sentence of paragraph 43 is undisputed but immaterial for the reasons set forth in defendants’ answer to paragraph 42. The second sentence is disputed. Freesmeyer testified only that at the time he signed the October 7, 1994 report, he “was aware [Murray’s] name was involved in the Lockmiller investigation.” (Def. St. Facts Ex. 1, at 113).

44. Freesmeyer also learned of Murray’s steroid use prior to charging Mr. Beaman. Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 91; *see also* Freesmeyer Dep. (Pl. Ex. 16) at 97. Freesmeyer had no reason to doubt that in the course of the investigation, Murray’s failure to cooperate in the polygraph was discussed among the investigators. Freesmeyer Dep. (Pl. Ex. 16) at 145. In fact, he assumed that it would have been discussed in at least one meeting among investigators. *Id.* at 155. *See also* Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 90 (admitting that he “may have been aware” of the John Murray polygraph); Zayas Dep. (Pl. Ex. 8) at 69 (the officers working on a case would be made aware of polygraph reports received in that case).

**RESPONSE:** The first sentence of paragraph 44 is disputed. Freesmeyer testified that: “steroid use was not an uncommon thing on the Illinois State University campus . . . so Larby Murray did not stand out as one villain amongst an entire city of 50,000.” (Pl. Ex. 34, at 91). Also, defendants dispute Freesmeyer charged Beaman. State’s Attorney Reynard made the decision that Beaman should be charged with Lockmiller’s murder. (Def. St. Facts Ex. 6, at 140). In addition, the steroid-related occurrences were when Beaman had already been charged. (Def. St. Facts Ex. 15, at 1-16). Further, enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

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Finally, Beaman's attorneys Beu and Reu knew Murray had a criminal history prior to trial and how to get Murray's criminal records if they wanted them. (Pl. Ex. 49, at 97, 110, 118, 151). The remaining alleged facts in paragraph 44 are disputed and material. Freesmeyer testified he did not remember whether Murray's polygraph report was discussed and that the report "probably would have gone directly to Tony Daniels, because he was the one who requested the polygraph." (Pl. Ex. 34, at 90). It is undisputed that Zayas testified to the last sentence of paragraph 44, but this alleged fact is immaterial because Zayas never testified he saw the Murray report or knew what happened to it. (Def. St. Facts Ex. 4, at 85).

## 2. Stacy ("Bubba") Gates

45. Stacy Gates, known as "Bubba," was a former boyfriend of Ms. Lockmiller who believed that he and Ms. Lockmiller had a "committed" relationship between January 1991 and July 1993 (the month before the murder), when Ms. Lockmiller broke up with him. Gates Trial Testimony Excerpts (Pl. Ex. 35) at 406. Gates stated that in July, "I received a letter from [Jennifer] breaking up. I didn't want to break up. I screamed and yelled and f[ou]ght." McCann Dep. (Pl. Ex. 28) at 58.

**RESPONSE:** It is undisputed that Gates made these statements but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). In addition, McCann's testimony about Gates' statements is improper hearsay. Further, Gates was eliminated as a suspect early on when his alibi was verified. (Def. St. Facts ¶82).

46. At the time of Ms. Lockmiller's death, and despite the break up, Gates considered himself to be Ms. Lockmiller's "boyfriend, her man" and the most important person in her life. Gates Interview (Pl. Ex. 36) at AB002329-30. He viewed Ms. Lockmiller as "the love of [his]

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life,” and believed he would marry her and have children with her. *Id.* at AB002309, AB002330-31.

**RESPONSE:** It is undisputed that Gates made these statements but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). Gates was eliminated as a suspect early on when his alibi was verified. (Def. St. Facts ¶82).

47. Laura McKeown, a close friend of Ms. Lockmiller’s, told investigators that Gates tied Ms. Lockmiller to a curtain rod to do something to her involving cold water. Laura McKeown Stmt. Excerpts (Pl. Ex. 22) at 8. *See also* Gates Dep. (Pl. Ex. 37) at 173 (Q. Have you ever tied Jennifer Lockmiller to a shower rod? A. Yes, to a shower rod.”).

**RESPONSE:** It is undisputed that McKeown told the police about Gates’ statements about the curtain rod and that Gates testified as set forth in paragraph 47, but these alleged facts are improper hearsay and immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). Gates was eliminated as a suspect early on when his alibi was verified. (Def. St. Facts ¶82).

48. Gates moved to Peoria, Illinois from Janesville, Wisconsin just three days before the murder. Gates Interview (Pl. Ex. 36) at AB002333. He relocated in order to be closer to Ms. Lockmiller. McKeown Interview Excerpts (Pl. Ex. 22) at 1.

**RESPONSE:** It is undisputed that Gates and McKeown made these statements to the police but McKeown’s statements about Gates’ intent is improper hearsay and both of their statements are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). Gates was eliminated as a suspect early on when his alibi was verified. (Def. St. Facts ¶82).

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49. Gates and Ms. Lockmiller made plans to get together the weekend of August 28, *i.e.*, the weekend after the murder. Gates Interview (Pl. Ex. 36) at AB002309, AB002321-22. Gates believed that the purpose of this meeting was to get back together as a couple, that he and Ms. Lockmiller “would be back together officially,” and that he and Ms. Lockmiller missed each other sexually. *Id.* at AB002321-22. At the same time, when Gates and Ms. Lockmiller spoke on the phone on Sunday, August 22nd, Gates was concerned that Ms. Lockmiller might back out on the plan to get together with him. *Id.* at AB002333.

**RESPONSE:** It is undisputed that Gates made these statements to the police but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). Gates was eliminated as a suspect early on when his alibi was verified. (Def. St. Facts ¶82).

50. Gates left a series of messages on Ms. Lockmiller’s answering machine in the days after her death, including one that said: “This is the Dr. Rev. Martin Luther King, Jr. talking to you all. I’m the teacher of the most niggers.” Gates Trial Testimony (Pl. Ex. 35) at 413.

**RESPONSE:** It is undisputed that Gates testified as set forth in paragraph 50, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). Gates was eliminated as a suspect early on when his alibi was verified. (Def. St. Facts ¶82).

51. An attempt was made to polygraph Mr. Gates on September 8, 1993. Gates Polygraph Docs. (Pl. Ex. 38) at 2. According to the polygrapher’s report:

There were erratic and inconsistent responses on the subject’s polygraph records which preclude the examiner from rendering an opinion on the following questions:

About two weeks ago, did you strangle Jennifer Lockmiller at her apartment[?]  
Answer: No

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Did you strangle Jennifer Lockmiller? Answer: No.

Were you present at Jennifer Lockmiller's apartment when she was strangled?  
Answer: No.

Do you know who strangled Jennifer Lockmiller?  
Answer: No.

*Id.* At 2-3.

**RESPONSE:** The first sentence of paragraph 51 is undisputed and material. The second sentence and subsections are undisputed and immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). Gates was eliminated as a suspect early on when his alibi was verified. (Def. St. Facts ¶82).

52. The polygraph examiner scored every answer that Gates gave as “doubtful”/“inconclusive,” and agreed it was possible that every one of Gates’ responses was a lie. McCann Dep. (Pl. Ex. 28) at 170, 185-86.

**RESPONSE:** It is undisputed the polygraph examiner testified as set forth in paragraph 52, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). Gates was eliminated as a suspect early on when his alibi was verified. (Def. St. Facts Ex. ¶82).

53. In speaking with the polygraph examiner, Gates initially denied – and later confessed – to having sex with a minor. *Id.* at 162-64.

**RESPONSE:** Paragraph 53 is improper argument and an improper characterization of Gates’ statements as a “confession” to the polygraph examiner. As a result, defendants dispute it. Further McCann’s testimony regarding Gates’ statement is improper hearsay.

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54. Defendant Freesmeyer interviewed the principal of the school where Mr. Gates was working as a physical education teacher at the time of the murder. Freesmeyer Police Reports (Pl. Ex. 7) at 35-36. According to the principal, Gates was present at school from 8:00 a.m. to 4:00 p.m. each weekday of the week of the murder, but this recollection was based solely on an attendance sheet that recorded only daily attendance and did not indicate whether Mr. Gates had left campus during the day. *Id.* at 36; Gates Attendance Sheet (Pl. Ex. 39) at 1.

**RESPONSE:** Undisputed.

55. It would have been impossible for the principal to monitor the presence of Mr. Gates, and every other teacher, throughout the day. Freesmeyer Dep. (Pl. Ex. 16) at 284-85. Gates had no recollection of whether the principal typically walked through his class once a day, or even once a week. Gates Dep. (Pl. Ex. 37) at 85.

**RESPONSE:** Paragraph 55 is disputed. Freesmeyer answered yes to the question: "Would it be impossible for the principal to continually monitor the presence of 34 people throughout the day?" (Def. St. Facts Ex. 1, at 285). However, Freesmeyer also testified that a principal has ways of making sure their teachers are present in the school. (Def. St. Facts Ex. 1, at 284). In addition, Gates testified that while he did not remember how often the principal conducted walk-throughs, the principal "did several walk-throughs, especially of new teachers of which I was one. She did a lot of walk-throughs to check how things were throughout the school because it was also her first year as principal." (Pl. Ex. 37, at 84-85). Finally, Beaman entered a stipulation at the trial that Gates was teaching at a grade school in Peoria at the time of the murder. (Stacey Gates Trial Stipulation, Def. Ex. 39; Pl. Ex. 49, at 129).

**C. Other Suspicious Characters**

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56. Roughly one month after the murder, Defendant Warner and Detective Hospelhorn went to an abandoned truck stop approximately 2.3 miles from Ms. Lockmiller's apartment and "met with a transient who was identified as Danny R Hosey." Danny Hosey Report (Pl. Ex. 40) at 1. Another officer had reported to Warner and Hospelhorn that Hosey had "knives in his car with what appeared to be blood." *Id.* at 1. During a subsequent interview on the following day, "Hosey seemed somewhat disoriented when [Detective Hospelhorn] spoke with him. . . . [Hospelhorn] asked Hosey if he could come to NPD for a[n] interview to which [Hosey] stated he did not think that was necessary. Hosey then started to recite some passages from the Bible and talked about his life at this time." *Id.* at 1.

**RESPONSE:** It is undisputed the police report reflects these statements but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

57. Stacy Gates told Defendant Warner that during the summer before the murder, an individual knocked at the door to Ms. Lockmiller's apartment at two or three in the morning. Gates Interview (Pl. Ex. 36) at AB002326. Standing in the doorway was a man in an overcoat who was "powerfully built" and had a "big rack of shoulders." *Id.* The man said words to the effect of, "I want to talk to her." *Id.* at AB002327.

**RESPONSE:** It is undisputed that Gates made these statements to Warner but these alleged facts are immaterial because the unidentified man was determined to be John Revis, who was incarcerated in Florida at the time of the murder, and enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

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58. Gates refused to let the individual speak with Ms. Lockmiller, and the individual responded with words to the effect of, “don’t you sass me,” and, “don’t you talk to me that way um or I’ll come up there and break the fucking door down.” *Id.* at AB002327. Three other males accompanied this individual and were waiting in a car parked outside. *Id.*

**RESPONSE:** It is undisputed that Gates made these statements but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

59. Gates told Detective Warner that this mysterious figure should be considered a suspect. *Id.* at AB002326. Defendant Warner agreed that the investigators should have followed up on the individual described by Gates. Warner Dep. (Pl. Ex. 41) at 133. The record lacks any indication of follow up regarding this individual.

**RESPONSE:** It is undisputed that Gates made this statement to Warner and Warner testified as set forth in paragraph 59. However, these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). Finally, the last sentence is improper argument and, therefore, defendants dispute it.

60. Gates also told Defendant Warner that an individual known as “Psycho Bill,” who had dated Ms. Lockmiller, should be considered a suspect. “Psycho Bill” was rumored to lure women into his room and film them, and at one point seemed to be guiding Ms. Lockmiller toward a closet. Gates Interview (Pl. Ex. 36) at AB002328.

**RESPONSE:** It is undisputed that Gates made these statements but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

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61. Investigators learned that Ms. Lockmiller had dated an individual named Cory Price and another individual with the nickname “Joey Yok Yok Monster,” and that there was an individual named Jason who was “obsessed” with Ms. Lockmiller. Belcher Dep. (Pl. Ex. 15) 143-44, 151-52.

**RESPONSE:** Paragraph 159 is disputed but immaterial. Warner testified only that he did not recall. (Def. St. Facts Ex. 3, at 135). Belcher also testified just that he did not know. (Pl. Ex. 15, at 143-44, 151-52). However, these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

#### **IV. MR. BEAMAN’S RELATIONSHIP WITH MS. LOCKMILLER**

62. While there was tumult in their relationship during the time when they were dating, Mr. Beaman and Ms. Lockmiller broke up by mutual decision on or about July 25, 1993, at which point Mr. Beaman left Bloomington-Normal and traveled to Cincinnati with a friend. Pl. Trial. Trans. (Pl. Ex. 6) at 1690. Following their break-up, Mr. Beaman and Ms. Lockmiller maintained a civil relationship. When Mr. Beaman last saw Ms. Lockmiller at the beginning of August, Ms. Lockmiller “seemed stable” and the two talked calmly for a short period of time before Mr. Beaman dropped her off at class and then drove home to Rockford. Pl Stmt. Aug. 28, 1993 (Pl. Ex. 42) at 13. Mr. Beaman stated that when he left Ms. Lockmiller on this last occasion, he “felt good[.]” *Id.* at 14.

**RESPONSE:** It is undisputed that Beaman testified as set forth in the first, third and fourth sentences of paragraph 62, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest

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and prosecution. (Def. St. Facts ¶98-110). The second sentence of paragraph 62 is disputed because it is not supported by a citation and immaterial for the same reason as stated above.

63. Mr. Beaman and Ms. Lockmiller's mutual friend, Josh Whitney, told investigators that after the break-up, in early August 1993, Mr. Beaman "seemed to me to be in an overall good mood and he had finally, he had finally gotten to the point of where he was no longer angry about anything. He sounded like he wanted to try to be just be [sic] friends with Jennifer again. The general thing I got was that he was in a good mood, I hadn't seen in quite a while." Whitney Stmt. (Pl. Ex. 43) at 3-4. Michael Swaine also stated that when Mr. Beaman returned from Ohio, "things were ironed out" between Ms. Lockmiller and Mr. Beaman "seemed ok." Swaine Stmt. Aug. 28, 1993 (Pl. Ex. 44) at AB001450. In August, Mr. Beaman began dating again, seeing a woman in Rockford named Beth Terresi. Pl. Trial Trans. (Pl. Ex. 6) at 1737-39, 1821.

**RESPONSE:** It is undisputed that these statements were made by Whitney and Swaine, and Beaman testified as set forth in the last sentence of paragraph 63, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

64. Ms. Lockmiller called Mr. Beaman 28 times on Sunday, August 22nd, but none of those calls were answered. *Id.* at 1717. Mr. Beaman did not know about the phone calls until the phone records were produced as part of the criminal trial. *Id.* Mr. Beaman and Ms. Lockmiller did speak with one another on Monday, August 23rd, on a phone call, initiated by Lockmiller, in which Lockmiller told him she wanted to get back together because Michael Swaine, one of the men she was dating at the time, did not want to see her anymore. *Id.* at 1719-21; Carol Beaman Trial Trans. (Pl. Ex. 59) at 1438-41. Mr. Beaman told Ms. Lockmiller that their relationship was

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over and that he did not want to see her again. Pl Trial Trans. (Pl. Ex. 6) at 1721; Carol Beaman Trial Trans. (Pl. Ex. 59) at 1442.

**RESPONSE:** It is undisputed that Beaman and Carol Beaman testified as set forth in paragraph 64, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). Moreover, Freesmeyer reasonably did not believe Beaman did not know of the 28 phone calls. (Def. St. Facts Ex. 1, at 249).

65. During the period when the two had been dating, there were two occasions on which Mr. Beaman forced open Ms. Lockmiller's door by kicking it. Both incidents occurred on nights when Ms. Lockmiller was dating Mr. Beaman but having sex with other men, Murray and Swaine. Murray Interview Sept. 2, 1993 (Pl. Ex. 21) at 16. In the incident with Swaine, Mr. Beaman arrived just after Swaine and Lockmiller had oral sex; they were kissing on the way into her bedroom. Swaine Dep. (Ex. 69) at 77-78. Swaine ran into Lockmiller's closet. *Id.* at 78. Mr. Beaman did not lay a finger on either Lockmiller or Swaine; instead, he gave Swaine, his friend, a ride home, and was calm throughout the drive. *Id.* 82, 85-87, 89-90. Swaine does not recall having any fear for his physical safety at any point that evening. *Id.* at 85.

**RESPONSE:** It undisputed that Beaman forced open Lockmiller's door by kicking it on at least two occasions. The second sentence of paragraph 65 is disputed only because it improperly characterizes Murray's interview statements. Murray referenced only himself in his statement. (Pl. Ex. 21, at 16). It is undisputed that Swaine testified to the statements in the remaining sentences of paragraph 65.

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66. Defendants Freesmeyer and Warner did not know of any evidence suggesting that Mr. Beaman had ever been physically violent toward any individual. *See* Freesmeyer Dep. (Pl. Ex. 16) at 208; Warner Dep. (Pl. Ex. 41) at 173.

**RESPONSE:** Undisputed as to any other individual other than Lockmiller but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

**V. LACK OF EVIDENCE AGAINST MR. BEAMAN**

67. Mr. Beaman was at his parents' home in Rockford when the murder occurred in Bloomington-Normal, some 130 miles away. He made calls from his parents' home at 10:37 a.m. and 10:39 a.m. *See infra* ¶¶ 144-45. He was also home at 2:15 p.m., when his mother returned home. *See infra* ¶¶ 135-36 It would have been impossible to leave his parents' home, drive to Ms. Lockmiller's, and get back within that timeframe. Seyfried Report (Pl. Ex. 45) at 4.

**RESPONSE:** Disputed. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). *See* defendants' response to plaintiff's statement of facts paragraphs 144-145, 135-36. In addition, while it is undisputed that plaintiff's expert opined in his report as set forth in paragraph 67, the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

68. Since his first interview with police on August 28, 1993, Pl. Stmt. (Pl. Ex. 42) at 9, 38-39, Mr. Beaman has maintained his innocence despite several unsuccessful efforts to elicit a confession:

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- a. An accusatory interrogation, conducted late at night on the day body was discovered. *Id.* at 1, 37-49.
- b. An interrogation in which Detective Brown accused Mr. Beaman of the killing and told him “I think you do know” what happened on the day of the murder. Freesmeyer Police Reports (Pl. Ex. 7) at 30.
- c. Two occasions on which Michael Swaine, a friend and former roommate of Mr. Beaman, wore a concealed body wire and spoke to Mr. Beaman about the murder while investigators taped the conversation. *Id.* at 23-25.
- d. An interrogation in which Freesmeyer told Mr. Beaman, “[I]f this facade continues, we’re going for the death penalty.” *Id.* at 32.

**RESPONSE:** The first sentence of paragraph 68 regarding “unsuccessful efforts to elicit a confession” is improper argument, and an improper characterization of the police interviews of Beaman. As a result, defendants dispute the first sentence and Beaman’s innocence.

Paragraph 68(a): It is undisputed as forth in Section (a) of paragraph 68 that the police interviewed Beaman on the day Lockmiller’s body was discovered. However, the characterization of the interview is improper argument and therefore disputed.

Paragraphs 68(b) and (d): Undisputed, but what language was used in the interviews to Beaman is immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

Paragraph 68(c): Undisputed. Beaman made several suspicious statements on the overhear with Swaine. (Def. St. Facts ¶98).

69. No witness placed Mr. Beaman in Bloomington-Normal, much less in the vicinity of Ms. Lockmiller’s apartment, on August 25, 1993. Todd Heyse testified that, while driving on

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a major thoroughfare and not slowing down, he saw a man and a woman walking towards Ms. Lockmiller's apartment. Heyse Trial Testimony (Pl. Ex. 46) at 463-66. He did not see these individuals during the week of the murder. His recollection of when he saw these individuals was connected to the date when he purchased a building. *Id.* at 477 ("Q: And what you saw occurred within apparently four or five days after you purchased the White Horse [building]? A: Yes."). *See also id.* at 465, 467. Heyse purchased the building on August 4, 1993, 21 days before the murder. *Id.* at 1150-53.

**RESPONSE:** The first sentence of paragraph 69 is improper argument and not supported by a citation. As a result, defendants dispute it. The second sentence is material but disputed because it is not supported by Heyse' testimony as cited in the record. (Pl. Ex. 46, at 465). Heyse told the police that he saw two people fitting the description of Beaman and Lockmiller around the time of the murder possibly on the exact day. (Def. St. Facts Ex. 6, at 287; Def. St. Facts Ex. 23, at 77). The third sentence is disputed and material. Heyse' statement to the police on June 24, 1994 indicated he saw this man and woman on either Tuesday, Wednesday or Thursday of the week of the murder. (Heyse statement, attached as Def. Ex. 40). It is undisputed that Heyse testified as set forth in the fourth and fifth sentences in paragraph 69, but these facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

70. Heyse's description of the man did not match Mr. Beaman. He told police that the man was wearing "trendy Euro-type of clothing." *Id.* at 476. On August 25, however, the bank video showed Mr. Beaman wearing jeans and a t-shirt. Pl. Trial Trans. (Pl. Ex. 6) at 1729, 1869. Heyse also testified that he did not have a good enough look to be able to identify either of the individuals again if he saw them. Heyse Trial Testimony (Pl. Ex. 46) at 467.

**RESPONSE:** The first sentence of paragraph 70 is improper argument and not supported by a citation in the record. As a result, defendants dispute it. It is undisputed that Heyse testified as set forth in the second and fourth sentences of paragraph 70, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). The third sentence is undisputed but also immaterial for the same reason.

71. As Detective Daniels agreed, no eyewitness could reliably place Mr. Beaman in Bloomington-Normal on the day of the murder. Daniels Dep. (Pl. Ex. 26) at 529.

**RESPONSE:** Paragraph 71 is disputed because it is not supported by the record. Daniels testified only that “to his knowledge,” no eye witness could place Beaman in Normal on the day of Lockmiller’s murder. (Def. St. Facts Ex. 5, at 529). It is also immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

72. There was no physical evidence implicating Mr. Beaman in the murder. *See infra* ¶¶ 93, 96.

**RESPONSE:** Disputed. Beaman’s fingerprints were found on the murder weapon, the cord of an alarm clock used to strangle Lockmiller. (Def. St. Facts ¶¶98-99).

73. The lead prosecutor, James Souk, acknowledged in his deposition that the Beaman prosecution “was a difficult circumstantial case” because of the dearth of physical evidence, the lack of a confession, and the lack of any eyewitness testimony. Souk Dep. (Pl. Ex. 47) at 137. Defendants Freesmeyer and Warner also stated that the evidence against Mr. Beaman was entirely circumstantial. Freesmeyer Dep. (Pl. Ex. 16 ) at 263; Warner Dep. (Pl. Ex. 41) at 149.

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**RESPONSE:** It undisputed that Souk, Freesmeyer and Warner testified as set forth in paragraph 73, but these facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

74. When the Supreme Court of Illinois vacated Mr. Beaman's conviction in 2008, the Court noted the "tenuous nature of the circumstantial evidence against Mr. Beaman." *People v. Beaman*, 229 Ill. 2d 56, 80 (2008).

**RESPONSE:** The language in the decision, *People v. Beaman*, is undisputed but language in a state court decision is not proper evidentiary support for facts alleged in response to a motion for summary judgment

## **VI. DEFENDANTS' ROLES IN THE INVESTIGATION**

### **A. Defendant Timothy Freesmeyer**

75. Early in the case, Defendant Timothy Freesmeyer assumed the role of principal investigator. Daniels Dep. (Pl. Ex. 26) at 66, 184-85; 495-96. He was also the principal detective investigating Alan Beaman. Freesmeyer Dep. (Pl. Ex. 16) at 28.

**RESPONSE:** Undisputed.

76. On the first day of the investigation, Freesmeyer had concluded that Mr. Beaman was "the primary suspect." Freesmeyer Dep. (Pl. Ex. 16) at 192.

**RESPONSE:** Paragraph 76 is disputed because it inaccurately quotes Freesmeyer's testimony.

77. While with the Normal Police Department, Freesmeyer had a disciplinary history that included pepper spraying an individual who was handcuffed and arresting a person without probable cause. Freesmeyer Disciplinary Reports (Pl. Ex. 48) at DEF 97-99.

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**RESPONSE:** Defendants object to Exhibit 48 on the basis of lack of foundation. In addition, paragraph 77 is disputed because it does not accurately reflect Freesmeyer's disciplinary report. (Pl. Ex. 48). Further, Freesmeyer's disciplinary history is immaterial as to how he conducted the investigation into the Lockmiller investigation.

78. Freesmeyer stated that during the investigation, he and Assistant States Attorney James Souk, the lead prosecutor in the criminal case against Mr. Beaman, worked as a team together. Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 36-37. Freesmeyer would receive the most of the credit if the Lockmiller case was solved, and the most blame if it remained unsolved. Brown Dep. (Pl. Ex. 14) at 114. The Lockmiller homicide investigation was the most high-profile case of Defendant Freesmeyer's career, and he had never been the lead investigator in a murder case. Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 21.

**RESPONSE:** The first sentence is undisputed. The second sentence is disputed and immaterial. Brown testified only that Freesmeyer "probably" would receive most of the credit. (Pl. Ex. 14, at 114). Brown was a McHenry County employee and no foundation was established for what knowledge he might have about assessing credit or blame in the Normal Police Department. In addition, any "credit" Freesmeyer would receive for Beaman's conviction is immaterial to Beaman's lawsuit because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). The third and fourth sentences are undisputed but immaterial for the same reason.

79. Freesmeyer arrested Mr. Beaman on May 17, 1994. Freesmeyer Police Reports (Pl. Ex. 7) at 48-49. Approximately four months later he was promoted to sergeant. Freesmeyer Trial Trans. (Pl. Ex. 50) at 954.

**RESPONSE:** The first sentence is undisputed and material. The second sentence is undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

80. Two months prior to trial Freesmeyer began working out of the States Attorney's office. Freesmeyer Post-Conviction Dep. (Pl. Ex 34) at 9.

**RESPONSE:** Undisputed.

81. Shortly after Mr. Beaman's conviction, Souk wrote a letter to the Chief of Police, which stated: "Beyond any question in my mind, this case would not have been won without Tim Freesmeyer." Souk Letter (Pl. Ex. 51).

**RESPONSE:** Undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

**B. Defendant David Warner**

82. Defendant David Warner was the "evidence technician" when he served as an investigator in the Lockmiller homicide investigation. Warner Dep. (Pl. Ex. 41) at 32; Freesmeyer Police Reports (Pl. Ex. 7) at 39. If an officer wanted evidence analyzed by the lab, Warner would "prepare the paperwork, take it to the lab, pick it up." Warner Dep. (Pl. Ex. 41) at 33. As evidence technician Warner retrieved all of the physical evidence produced in the investigation, including the latent prints obtained from Ms. Lockmiller's apartment. Freesmeyer Police Reports (Pl. Ex. 7) at 39.

**RESPONSE:** The first two sentences of paragraph 82 are undisputed. The third sentence is disputed as it mischaracterizes Warner's responsibilities and is not supported by the citation. Freesmeyer police report, page 39, states only that Freesmeyer transported all "evidence from the

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Latent division regarding the Lockmiller case” and “turned it over to [the] evidence custodian, Det. David Warner.” (Def. St. Facts Ex. 8, at 39).

83. Defendant Warner was also in charge of investigating Stacy Gates, an alternative suspect. Warner interviewed Gates, from which Warner determined that Gates was in love with Lockmiller but had “over-inflated views of how [Lockmiller] perceived him.” Warner Dep. (Pl. Ex. 41) at 116-19. Warner testified that, during the interview, Gates was rambling and incoherent; following the interview, Warner told Zayas that “some more work might need to be done on [Gates],” meaning he had to be investigated further. *Id.* at 120-22. Warner acknowledged that Gates may have had a motive for Lockmiller’s murder. *Id.* at 127-28. Warner did not ever rule Gates out as a suspect. *Id.* at 144-45.

**RESPONSE:** The first sentence of paragraph 83 is undisputed. The second sentence is undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). The third sentence is disputed because it is not supported by the record. Warner testified only that Gates was rambling and “changed topics a lot.” (Def. St. Facts Ex. 3, at 120). The remaining part of the third sentence is immaterial for the reasons set forth above. The fourth sentence is undisputed but immaterial for the reasons set forth above. In addition, Gates was eliminated as a suspect early on when his alibi was verified. (Def. St. Facts ¶82). The fifth sentence is disputed because it is not supported by the cited record. Warner testified only that he did not know if Gates was ever ruled out as a suspect. (Def. St. Facts Ex. 3, at 144). The fifth sentence is immaterial for the reasons set forth above.

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84. Warner also requested and received the polygraph reports for both Gates and John Murray. Warner Dep. (Pl. Ex. 41) at 38, 108-12, 115-16, 135-36. He agreed that following Murray's failed polygraph, further investigation of Murray was warranted. *Id.* at 115-16.

**RESPONSE:** The first sentence of paragraph 84 is disputed because it is not supported by the cited record. Warner testified Daniels requested the polygraph reports and Warner made the appointment. (Pl. Ex. 95 at 38). Warner testified only that the polygraph reports were directed to his attention and that he gave the report for Murray to Daniels. (Def. St. Facts Ex. 3, at 39, 106). The second sentence of paragraph 84 is disputed in the characterization of the polygraph report as being "failed" and not supported by the citation. Warner only testified that further investigation would be needed if a polygraph report indicated a suspect was unable to complete the exam and comply with the instructions. (Def. St. Facts Ex. 3, at 115); (Pl. Ex. 38, at 47-48, 198-99).

85. On May 17, 1994, Warner aided in Plaintiff's arrest, including by monitoring the conversation that Freesmeyer, who was wearing a body wire, had with Mr. Beaman as Mr. Beaman was taken into custody. Freesmeyer Police Reports (Pl. Ex. 7) at 49.

**RESPONSE:** Undisputed but Warner's assistance in the arrest is immaterial. Warner had no involvement in the murder investigation after the first few weeks of October, 1993. (Def. St. Facts Ex. 3, at 69-70).

**C. Defendant Frank Zayas**

86. Defendant Frank Zayas was the Lieutenant "in charge of the detective division," "had ultimate responsibility for [the Lockmiller] case," and supervised the detectives working on the case. Freesmeyer Dep. (Pl. Ex. 16) at 32-33; Zayas Dep. (Pl. Ex. 8) at 69; Daniels Dep. (Pl. Ex. 26) at 486-87. Defendant Zayas continued to supervise the Lockmiller investigation

until his retirement in November 1994, six months after Mr. Beaman's arrest. Freesmeyer Dep. (Pl. Ex. 16) at 28, 289; Hospelhorn Dep. (Pl. Ex. 31) at 30-32. He participated in the May 16, 1994 meeting where the decision was made to arrest Mr. Beaman. Freesmeyer Police Reports (Pl. Ex. 7) at 48.

**RESPONSE:** The first sentence of paragraph 86 is undisputed. The second sentence is disputed. Documentary evidence, the annual report for the Normal Police Department's Criminal Investigation Division (CID), shows Zayas was reassigned from CID from some time in February until June, 1994. (Def. St. Facts Ex. 4, at 20, 23; See CID report attached as Def. Ex. 41). The last sentence is undisputed and material.

**D. Information Sharing and Contact Among the Defendants**

87. There was a high level of information sharing among the investigators involved in the Lockmiller homicide investigation. Belcher Dep. (Pl. Ex. 15) at 43.

**RESPONSE:** Disputed. Belcher testified only that the investigators kept in touch with each other and that formal meetings were conducted to keep the police chief apprised of the status of the investigation. (Pl. Ex. 15, at 43-44); (Def. St. Facts ¶¶27-30).

88. Defendant Freesmeyer's reports document that during the Lockmiller homicide investigation, nine investigators' meetings were held, and there may have been even more meetings among investigators not documented in his reports. Freesmeyer Police Reports (Pl. Ex. 7) at 11, 16, 17, 20, 22, 35, 48, 57; Freesmeyer Dep. (Pl. Ex. 16) at 67. Such meetings were held throughout the investigation to "[s]hare information, assignments, who's doing what." Warner Dep. (Pl. Ex. 41) at 78; Belcher Dep. (Pl. Ex. 15) at 41-42 ("[W]e had meetings ... to discuss the -- the progress of the case and such.").

**RESPONSE:** Undisputed.

89. Most of the detectives worked all in “one big office . . . It was a cubicle situation. It was very open. And they could talk amongst [themselves].” *Id. See also* Daniels Dep. (Pl. Ex. 26) at 73 (investigators shared information during the investigation).

**RESPONSE:** Undisputed.

90. Officers received copies of each other’s reports “throughout the investigation” and were required to read them in order for detectives to stay “all on the same page.” Zayas Dep. (Pl. Ex. 8) at 41-42. *See also id.* at 39; Daniels Dep. (Pl. Ex. 26) at 647.

**RESPONSE:** Undisputed.

## VII. AUGUST 28, 1993: DAY ONE OF THE INVESTIGATION

91. On August 28, 1993, Ms. Lockmiller’s partially decomposed body was discovered by Morgan Keefe, an acquaintance of the victim, who called 911. Hartman Dep. (Pl. Ex. 11) at 5, 12. Keefe informed police about various potential suspects, including the unknown men with whom Ms. Lockmiller had flirted in the days before her death. *See supra* ¶¶ 13-14. Keefe also mentioned Alan Beaman. Keefe did not know Mr. Beaman at all well, had met him only once or twice, did not consider him violent, and was not personally afraid of him. Hartman Dep. (Pl. Ex. 11) at 15-16.

**RESPONSE:** The first and second sentences of paragraph 91 are undisputed other than Hartman (Keefe) was Lockmiller’s best friend, not merely an acquaintance of hers. (Def. St. Facts ¶32). With regard to the third sentence, Hartman (Keefe) not only “mentioned” Beaman but identified him as the murderer in her 911 call to the police. (Def. St. Facts ¶32). The alleged facts in the fourth sentence are an improper characterization of Hartman’s testimony and statements to the police. (Def St. Facts ¶32-34). Hartman testified that although she was not afraid of Beaman

personally, she knew Lockmiller was afraid of Beaman because Lockmiller repeatedly told her so. (Def. St. Facts ¶34).

92. Keefe testified in her deposition that she was “guessing” when she told the police Mr. Beaman might be the killer, and she didn’t expect that the guesses she expressed to the police would “carry a lot of weight.” Hartman Dep. (Pl. Ex. 11) at 15-16.

**RESPONSE:** It is undisputed that Hartman (Keefe) testified that she was only guessing that the killer was Beaman but she also testified she believed Beaman was the killer because Lockmiller told Hartman that she was afraid of Beaman, Beaman broke down Lockmiller’s door, Beaman was possessive about Lockmiller, Beaman made harassing phone calls to Lockmiller and Beaman threatened to commit suicide if Lockmiller broke up with him. (Def. St. Facts ¶34; Pl. Ex. 11, at 17-19).

93. As August 28, 1993, drew to a close:
- a. The investigators had done nothing to investigate anyone’s alibi.
  - b. The investigators had obtained no eye-witness accounts of the murder.
  - c. The investigators had obtained no physical evidence linking Mr. Beaman to the crime.
  - d. The autopsy had not been completed and no finger prints had been tested. Kennedy Report (Pl. Ex. 52) at 6; Dierker Report Jan. 4, 1994 (Pl. Ex. 64).
  - e. The investigators knew that Ms. Lockmiller’s apartment lay on a busy thoroughfare in a college town, factors that, according to Defendant Zayas pointed to a broad range of potential suspects. *See supra* ¶ 8.
  - f. The investigators had visited the crime scene, Freesmeyer Police Reports (Pl. Ex. 7) at 1-2. which pointed to a burglary-turned-rape as the origin of the murder, *see supra* ¶ 9, and suggested that the crime “would have required a person of considerable strength and power to maintain complete control over Jennifer up through wrapping the electrical cord around her neck.” Moses Report (Pl. Ex. 9) at 3.
  - g. The investigators had learned by interviewing Mr. Beaman that he was thin and of small stature. Pl. Stmt. Aug. 28, 1993 (Pl. Ex. 42) at 1; Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 244-45 (“Alan’s ... not a real big man. He’s maybe 120 pounds.”)

- h. The investigators had been informed that Ms. Lockmiller was a “partier” who used marijuana, heroin, and LSD, “stayed up late at night,” dressed in an “almost sleazy” manner, and engaged in “excessive drinking,” Freesmeyer Police Reports (Pl. Ex. 7) at 2, 6.
- i. The investigators had learned about Ms. Lockmiller’s various encounters with unidentified men in the days before her death. *See supra* ¶¶ 13-14.
- j. The investigators had obtained Ms. Keefe’s guesses about possible suspects. *See supra* ¶ 91.
- k. The investigators had learned that the new paramour, Swaine, had moved in with Ms. Lockmiller two to three weeks before the murder. Keefe Stmt. Aug. 28, 1993 (Pl. Ex. 19) at 4-5.
- l. The investigators had learned that arguments had occurred several months ago between Mr. Beaman and Ms. Lockmiller Freesmeyer Police Reports (Pl. Ex. 7) at 2, and that Mr. Beaman had broken down Ms. Lockmiller’s door. Keefe Stmt. Aug. 28, 1993 (Pl. Ex. 18) at 16.
- m. The investigators had received no indication that Mr. Beaman had ever directed violence at any person, and had been told that by Swaine that Mr. Beaman was “not physical.” Swaine Stmt. Aug. 28, 1993 (Pl. Ex. 44) at AB001455.
- n. The investigators had learned from Swaine that Mr. Beaman had left the Bloomington-Normal area in July to disengage from the relationship with Ms. Lockmiller. *Id.* at AB001456-58. Ms. Lockmiller also told Swaine that Beaman had said he was over her and did not love her any more. *Id.* at AB001459.
- o. The investigators had discovered that Ms. Lockmiller had broken up with Gates, but that Gates wanted to get back together, and that the two had plans to see each other two days after the murder occurred. Keefe Stmt. Aug. 28, 1993 (Pl. Ex. 19) at 7-8.
- p. The investigators had reviewed letters from Gates in which he stated, “I know if your pussy isn’t shaved, I want to shave it or have you do it for me,” Gates Letters (Pl. Ex. 82), and old letters from Beaman to Lockmiller which Freesmeyer thought expressed “an enormous love for Jennifer,” Freesmeyer Police Reports (Pl. Ex. 7) at 7.
- q. The investigators knew that Mr. Beaman voluntarily consented to a lengthy interview late at night by two detectives, agreed to accompany them to a police station, agreed to have the interview taped, declared his innocence during the interview, and discontinued the interview only when it became highly accusatory. Hospelhorn Police Report (Pl. Ex. 54) at 2; Pl. Stmt. Aug. 28, 1993 (Pl. Ex. 42) at 37-49.

**RESPONSE:**

Paragraph 93(a): Paragraph (a) does not contain a citation to the record and is disputed.

Paragraph 93(b): Paragraph (b) does not contain a citation to the record and is disputed.

Paragraph 93(c): Paragraph (c) does not contain a citation to the record and is disputed. Beaman's fingerprints were found on the murder weapon, the cord of an alarm clock used to strangle Lockmiller. (Def. St. Facts ¶¶98-99).

Paragraph 93(d): Undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

Paragraph 93(e): See defendants' response to plaintiff's statement of facts paragraph 8.

Paragraph 93(f): It is undisputed that the investigators visited the crime scene. However, it is disputed that the crime scene pointed to a burglary turned rape. (Def. St. Facts ¶¶98). See defendants' response to plaintiff's statement of facts paragraph 9. It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 93(f) but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

Paragraph 93(g): Undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

Paragraph 93(h): Undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

Paragraph 93(i): See defendants' response to plaintiff's statement of facts paragraphs 13-14.

Paragraph 93(j): See defendants' response to plaintiff's statement of facts paragraph 91.

Paragraph 93(k): Paragraph 93(k) contains improper argument with regard to characterizing Swaine as a “new paramour” but the remaining part of paragraph 93(k) is undisputed.

Paragraph 93(l): Undisputed.

Paragraph 93(m): Disputed. Swaine only told the investigators that Beaman had never been physical with Swaine. (Pl. Ex. 44, at AB001455). However, the investigators had information that Beaman had been physically violent around Lockmiller, kicked her door in, threw things at her, punched a hole in her wall, and that one of Lockmiller’s neighbors (Susan Jenkins) was afraid to call the police when she overheard fights between Lockmiller and Beaman because she thought if she did Beaman would beat Lockmiller as a result. (Def. St. Facts ¶¶32, 33, 34, 36, 37, 49, 53, 58, 61). Lockmiller’s friend Meredith Haynes told the police that Beaman “pushed” Lockmiller around and knocked things over in her apartment. (Def. St. Facts ¶61).

Paragraph 93(n): The first sentence of paragraph 93(n) is disputed because it mischaracterizes Swaine’s statements to the police about why Beaman left the Bloomington-Normal area. (Pl. Ex. 44, at AB01458). It is undisputed that Swaine made the statement in the second sentence of paragraph 93(n) but this is immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

Paragraph 93(o): Undisputed. However, enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). Further, Gates was eliminated early on as a suspect when his alibi was verified.

Paragraph 93(p): Undisputed. However, Gates was eliminated early on as a suspect when his alibi was verified. (Def. St. Facts ¶82).

Paragraph 93(q): Paragraph 93(q) contains improper argument with regard to the interview being “highly accusatory” and mischaracterizes Hospelhorn’s report relating to Beaman’s interview and Beaman’s statement and as a result, defendants dispute it. It is undisputed that Beaman agreed to an interview at the police station, and agreed to have the interview taped.

94. With the evidence in the state described above on Day One of the investigation, Defendant Freesmeyer immediately concluded that Alan Beaman was the primary suspect—and he clung to this conclusion throughout the investigation:

Q. ... When did Alan Beaman become the prime suspect in this case?

A. Immediately.

Q. did he ever in your mind become something other than the prime suspect?

A. No.

Freemeyer Post-Conviction Dep. (Pl. Ex. 34) at 34. *See also* Freemeyer Dep. (Pl. Ex. 16) at 192.

**RESPONSE:** The first sentence of paragraph 94 is improper argument and as a result, defendants dispute it. It is undisputed that Freesmeyer testified as quoted in paragraph 94.

95. Other investigators did not share Freesmeyer’s view that Beaman should immediately have been considered the primary suspect:

a. Detective Daniels stated that Ms. Lockmiller “did have and wanted one boyfriend after the other which is why there were so many suspects that weren’t excluded in the investigation at first.” Daniels Dep. (Pl. Ex. 26) at 160.

b. Detective Daniels believed that the evening of August 28 was too early to even interview or interrogate Mr. Beaman. *Id.* at 508.

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- c. Detective Hospelhorn testified that even after he and Detective Daniels interviewed Mr. Beaman on August 28, they did not form any suspicion as to Mr. Beaman's guilt. Hospelhorn Dep. (Pl. Ex. 31) at 77.
- d. During the investigation, Detective Hospelhorn was skeptical as to Mr. Beaman's guilt and discussed that view with Detective Daniels. Daniels Dep. (Pl. Ex. 26) at 483-84.
- e. During the investigation, Detective Daniels expressed to Defendant Zayas the view that "we didn't have sufficient evidence yet" and that "[i]t was all circumstantial." Zayas Dep. (Pl. Ex. 8) at 117.

**RESPONSE:** The first sentence of paragraph 95 is improper argument, and not supported by the citations to the record. As a result, defendants dispute it.

Paragraph 95(a): Undisputed that Daniels testified as set forth in paragraph 95(a) but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

Paragraph 95(b): Undisputed that Daniels testified as set forth in paragraph 95(b) but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

Paragraph 95(c): Disputed. Daniels and Hospelhorn came away from the first Beaman interview believing Beaman's conduct was highly suspicious. (Def. St. Facts Ex. 5, at 129).

C11707

Paragraph 95(d): Undisputed that Daniels testified as set forth in paragraph 95(d) but these alleged facts are immaterial. Hospelhorn had no involvement in the murder investigation after the first few weeks of October, 1993. (Def. St. Facts Ex. 2, at 163).

Paragraph 95(e): Undisputed that Zayas testified as set forth in paragraph 95(e) but Daniels' opinion was immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

96. Defendant Zayas admitted that at the time of his retirement in November 1994 – five months after Mr. Beaman's arrest in May 1994 – the case against Mr. Beaman was “in limbo,” “needed more work” and was not ready to be prosecuted:

Q. Were you certain that Alan Beaman killed Jennifer Lockmiller at any point prior to your retirement?

A. No. I don't think we had all the information needed at the time when I left. That was still in limbo. They were still working on it. So at the point, I didn't know.

....

Q. ...But it was your sense when you retired that there were still loose ends in the case?

A. Still work to be done.

Q. And that no one could reasonably say with certain[ty] that Alan Beaman was the killer, right?

A. That's true.

MS. EKL: Objection; foundation.

A. My opinion at the time is true.

Q. Was there anything to – that caused you to doubt whether Alan Beaman was the killer?

A. At that point – I'll put it this way.

C11708

*I don't think the case was ready to be sent to the State [for prosecution] yet. I think we needed to work on it some more.*

Q. And that was true in November of '94 when you retired?

A. Yes, sir.

*Id.* at 179-81 (emphasis added).

**RESPONSE:** It is undisputed that Zayas testified as set forth in paragraph 96, but these alleged facts are immaterial because the decision to charge Beaman was decided solely by State's Attorney Reynard. (Def. St. Facts ¶¶95-96).

97. Chief Walter Clark instructed Detective Daniels to present the Beaman case at a conference on unresolved cases, entitled "Techniques for Resolving 'Uncleared' Homicides," in Florida in April 1994. Daniels Dep. (Pl. Ex. 26) at 582. Daniels had proposed presenting another case to the conference, but Clark instructed him to present the Lockmiller case, so that it would receive another look. *Id.* at 328, 582.

**RESPONSE:** It is undisputed that Daniels attended the conference but he testified at his deposition that Chief Clark did not tell him the reason to take the Lockmiller case. (Def. St. Facts Ex. 5, at 582). However, these alleged facts are immaterial because even though Daniels brought back some suggestions about possible investigative avenues before arresting Beaman, Souk told him "I think we've got our guy,"—referring to Beaman. (Def. St. Facts ¶¶96-97).

98. Plaintiffs' expert in criminal investigations, Gregg O. McCrary, who has investigated more than 1000 homicides, McCrary Report (Pl. Ex. 55) at 2, opined that the immediate focus on Mr. Beaman as the primary suspect narrowed and tainted the investigation in two ways. McCrary Report (Pl. Ex. 55) at 3, 9.

C11709

**RESPONSE:** It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 98 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

99. First, despite a dearth of evidence that Ms. Lockmiller was murdered by a close acquaintance, "the immediate working hypothesis was that a current or former intimate partner had murdered Ms. Lockmiller. While that is one hypothesis, properly trained investigators know that they have to consider all reasonable hypotheses, being careful not to rush to judgment regarding potential suspects or motivations. There is little indication that the defendants seriously considered that the homicide of Ms. Lockmiller was anything other than an intimate partner homicide. In effect, the die was cast." McCrary Report (Pl. Ex. 55) at 9.

**RESPONSE:** It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 99 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

100. Second, the list of intimate partner suspects "immediately became a list of one, Alan Beaman." This focus occurred "before any meaningful investigation had even begun, including an autopsy." McCrary Report (Pl. Ex. 55) at 21.

**RESPONSE:** It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 100 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

**VIII. DISTORTION OF EVIDENCE TO FIT THE IMMEDIATE, UNSUPPORTED CONCLUSION THAT MR. BEAMAN WAS GUILTY**

C11710

101. According to McCrary, the Defendants' focus on Mr. Beaman did not end after Day One, but instead continued for the entire investigation, throughout which they "intentionally creat[ed] this false narrative." McCrary Report (Pl. Ex. 55) at 3. "[T]he defendants chose to believe [Mr. Beaman] was guilty and the record clearly shows that they set out to prove that he committed the murder in spite of their protestations of being objective." *Id.*

**RESPONSE:** It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 101 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

102. On October 27, 1993, Freesmeyer "informed" Mr. Beaman "that he was going to be arrested for Jennifer's death at one point or another." Freesmeyer Police Reports (Pl. Ex. 7) at 32. Freesmeyer, by his own account, threatened Mr. Beaman with the death penalty, telling Mr. Beaman, "if this façade continues, we're going for the death penalty." *Id.*

**RESPONSE:** It is undisputed that Freesmeyer's report contains these statements but Freesmeyer's report also contains information that Freesmeyer told Beaman that "probable cause for an arrest already existed" (Pl. Ex. 7, at 32), because enough evidence had developed to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

103. According to McCrary, "[t]hreatening a suspect with the death penalty violates basic police practices. It is coercive and should never be used, especially to try and leverage a confession as it was in this situation. This exchange is clear evidence that Detective Freesmeyer has prematurely concluded that Mr. Beaman is guilty of the murder despite any concrete evidence to support that conclusion and with a large amount of logical investigation incomplete." McCrary Report (Pl. Ex. 55) at 12-13.

C11711

**RESPONSE:** It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 103 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

**A. Defendants Focus on a Non-probative Fingerprint**

104. The only piece of physical evidence consisted of fingerprints on Ms. Lockmiller's alarm clock. The alarm clock revealed seven latent prints – four of which were Michael Swaine's, two of which were Mr. Beaman's, and a remaining unidentified print. Dierker Trial Trans. (Pl. Ex. 56) at 503-04. Mr. Beaman's finger prints were *not* found on the cord of the alarm clock, which was used to strangle Ms. Lockmiller, or on the scissors lodged in her chest. *Id.* at 492-95.

**RESPONSE:** The first sentence of paragraph 104 is improper argument and not supported by a citation to the record. As a result, defendants dispute it. The second sentence of paragraph 104 is undisputed but immaterial with regard to Swaine. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). The third sentence is disputed because Dierker testified only that there were no "latent [fingerprint] impressions suitable for comparison on the pair of scissors" and that he "found no suitable prints on the electrical cord." (Pl. Ex. 56, at 494-495). However, these facts are immaterial for the same reason.

105. There is no way to determine when finger prints are placed on an object. *Id.* at 485, 512.

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**RESPONSE:** Paragraph 105 is undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

106. Mr. Beaman had previously spent the night at Ms. Lockmiller's apartment and used the clock while at her home. Pl. Dep. Dec. 14, 2012 (Pl. Ex. 2) at 501-02; Souk Grand Jury Trans. (Pl. Ex. 4) at 277. This provided, as Mr. Souk agreed, "a reasonable alternate explanation for the fingerprints" because there was no scientific evidence to suggest that Mr. Beaman's fingerprints were left on the clock radio at the time of the murder. Souk Dep. (Pl. Ex. 47) at 284, 125. *See also* Daniels Dep. (Pl. Ex. 26) at 522-23; *Beaman*, 229 Ill. 2d at 77-78 (stating that the "fingerprints on the clock radio . . . were explained by [Mr. Beaman's] relationship with Jennifer").

**RESPONSE:** The first sentence of paragraph 106 is undisputed and material. With regard to the second sentence, it is undisputed that Souk testified there was a "reasonable alternative explanation for the fingerprints." However, the second part of the second sentence is disputed because it is not supported by the record. Souk testified only that "fingerprint experts won't give you such an opinion [as to the origin date of the fingerprints] or at least they didn't back then." (Def. St. Facts Ex. 6, at 125). Daniels testified only that "Alan had one time or another had to touch that clock and prints cannot be dated." (Def. St. Facts Ex. 5, at 522). However, these facts are immaterial because enough other evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). Finally, the citation to the *Beaman* case is improper evidentiary support.

107. Defendant Freesmeyer identified Mr. Beaman's finger-print on the clock as an important piece of evidence against Mr. Beaman. Freesmeyer Post-Conviction Dep. (Pl. Ex. 34)

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at 26. He admitted that his view that the fingerprint evidence held any significance was based “solely on [his] own interpretation.” Freesmeyer Dep. (Pl. Ex. 16) at 203.

**RESPONSE:** Undisputed.

108. Neither Freesmeyer nor any other Defendant ran the unidentified print found on the clock radio through a federal, state, or local automated fingerprint indexing system (AFIS). Freesmeyer Trial Trans. (Pl. Ex. 50) at 993. The investigators also failed to dust the dishes left out on the counter for finger-prints, even though the home invader/killer might have used them to prepare a snack. Moses Report (Pl. Ex. 9) at 4; *see supra* ¶¶ 9-10.

**RESPONSE:** The first sentence of paragraph 108 is disputed. Freesmeyer only testified he had no knowledge of anyone running the unidentified print through a system but it might have been done. (Def. St. Facts Ex. 19, at 993). However, this fact is immaterial. First, an allegedly insufficient investigation does not support a conspiracy claim. *Kunz v. City of Chicago*, 234 F.Supp.2d 820, 824 (N.D.Ill. 2002). Second, enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). With regard to the second sentence, it is undisputed that plaintiff’s expert opined in his report as set forth in paragraph 108 but the report is improper hearsay and the opinion of plaintiff’s expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

**B. Defendants Construe Exculpatory Recorded Statements as Evidence of Guilt**

109. Freesmeyer engineered a series of four telephonic overhears and in-person meetings between Mr. Beaman and his friend, Swaine, in which Swaine wore a wire. Freesmeyer Police Reports (Pl. Ex. 7) at 19-20, 22-25; Telephone Overhear Sept. 1, 1993 (Pl. Ex. 70);

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Telephone Overhear Sept. 2, 1993 (Pl. Ex. 71); In-Person Overhear Sept. 8, 1993 (Pl. Ex. 72); In-Person Overhear Sept. 15, 1993 (Pl. Ex. 73). The purpose of the surreptitiously recorded conversations with Swaine was to “see if [Mr. Beaman] said anything incriminating,” and Swaine put himself forward “as an emotional wreck in order to get [Mr. Beaman] talking.” Swaine Dep. (Ex. 69) at 180-81, 185-86.

**RESPONSE:** Paragraph 109 contains improper argument with regard to the use of the phrases “engineered” and the “surreptitiously recorded conversations.” The remaining portions of the sentences in paragraph 109 are undisputed.

110. Freesmeyer also wore a wire during at least three conversations that he had with Mr. Beaman “in the event that he would make . . . incriminating statements.” Freesmeyer Police Reports (Pl. Ex. 7) at 34, 40, 42-43, 48-49.

**RESPONSE:** Disputed to the extent it mischaracterizes Freesmeyer’s police report. In his police report, Freesmeyer stated that “in the event that he would make *further* incriminating statements.” (Pl. Ex. 7, at 40).

111. During all of these surreptitiously recorded interactions with Swaine and Freesmeyer, Mr. Beaman did not inculcate himself in the murder. Telephone Overhear Sept. 1, 1993 (Pl. Ex. 70); Telephone Overhear Sept. 2, 1993 (Pl. Ex. 71); In-Person Overhear Sept. 8, 1993 (Pl. Ex. 72); In-Person Overhear Sept. 15, 1993 (Pl. Ex. 73). When Swaine said he just wanted to know what happened to Ms. Lockmiller, Mr. Beaman replied, “Dude, I don’t know shit, that’s the problem.” In-Person Overhear Sept. 8, 1993 (Pl. Ex. 72) at 2. Mr. Beaman also made it clear to Swaine that he no longer had a romantic interest in Ms. Lockmiller at the time of her death. *Id* at 5.

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**RESPONSE:** Paragraph 111 contains improper argument with regard to the use of the phrases “surreptitiously recorded conversations.” The last sentence of paragraph 111 is disputed because it improperly characterizes Beaman’s statements to Swaine. (Pl. Ex. 72, at 5). The remaining portions of the sentences in paragraph 111 are undisputed.

112. After reviewing the transcripts of the various surreptitious recordings, McCrary opined:

Not only did Mr. Beaman deny knowing anything about the murder, but many of the things he said were inconsistent with being jealous about Ms. Lockmiller’s relationship with Michael Swaine or anyone else, the alleged motive for her murder according to the defendants’ theory. It also refutes the defendant’s hypothesis that Mr. Beaman drove to Normal to rekindle his relationship with Ms. Lockmiller. The statements are especially credible as they occurred in what Mr. Beaman thought was a private conversation with a trusted friend. He had no idea that Mr. Swaine was working as an agent for law enforcement and that he was recording this conversation.

McCrary Report (Pl. Ex. 55) at 12.

**RESPONSE:** It is undisputed that plaintiff’s expert opined in his report as set forth in paragraph 112 but the report is improper hearsay and the opinion of plaintiff’s expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110),

113. Freesmeyer, however, seized on the fruitless overhears as evidence of guilt and a basis for probable cause, imagining, due to some crude comments about Mr. Beaman’s prior romantic relationship with Ms. Lockmiller, that the overhears contained “a number of incriminating statements . . . which to me seemed totally out of place and very alerting.” Freesmeyer Dep. (Pl. Ex. 16) at 195.

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**RESPONSE:** Paragraph 113 contains improper argument and an improper characterization of Freesmeyer's deposition testimony. Freesmeyer testified the statements made by Beaman during the overhears provided part of the basis for probable cause as follows:

A: There were also a number of incriminating statements in the overhears that he made which to me seemed totally out of place and very alerting. He made one comment during an overhear with Mike Swain where he said: That women dug into me with every ounce of sharp silver she had every time she could. I had never heard anybody say the expression "dug into me with every ounce of sharp silver." And that was less than a week and a half after we found the body where she was stabbed in the chest with a pair of silver scissors with a colored handle.

He also made a comment to Simone Weisman that -- when we interviewed her that he told her that he could not watch Basic Instinct with Jennifer anymore because of the time when they were having sex and she reached back as if she was gonna grab something. in the movie, the female in the movie during an act of sexual intercourse reaches back and grabs an ice pick and stabs the victim in the chest with an ice pick. I found that to be odd that that was fresh in his mind, the movie scene, Basic Instinct, which he had been stabbed in the chest. And we don't know if there was a sexual assault or not. He also made the comment when talking to Mike Swain that he knew he was sleeping with her. And Mike said: How do you know that? And he responded: That pussy never tasted the same. That to me was incredibly crude for somebody he supposedly loved a week and a half after her death, and he said it with hardly any remorse whatsoever. He made a comment to Alan, she was never gonna be happy, man. She was never gonna be happy. And in training for homicides, they often say that when somebody makes a terminal statement like that they're definitive that somebody's never gonna be happy, they're trying to justify their own actions.

(Def. St. Facts Ex. 1, at 195-197).

**C. Defendants Treat an Exculpatory Crime Scene As Evidence of Guilt**

114. Freesmeyer treated exculpatory features of the crime scene as affirmatively inculpatory and a basis for probable cause. *See infra* ¶¶ 116, 118, 121.

**RESPONSE:** Paragraph 114 contains improper argument. Further, defendants dispute that there were exculpatory features of the crime scene that overcame the evidence that served as a basis for probable cause to arrest and prosecute Beaman. (Def. St. Facts ¶¶98-110).

**1. Stab Wounds**

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115. The pattern and small number of stab wounds inflicted upon Ms. Lockmiller correlate with a murder by a stranger, not an emotionally-charged interaction with a close acquaintance: “Emotionally charged stabbings generally have far greater number of wounds in a frantic pattern.” Moses Report (Pl. Ex. 9) at 4.

**RESPONSE:** Defendants dispute that Lockmiller’s murder was not one of a crime of passion. (Def. St. Facts ¶99). It is undisputed that plaintiff’s expert opined in his report as set forth in paragraph 15 but the report is improper hearsay and the opinion of plaintiff’s expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

116. Freesmeyer, however, interpreted the manner of stabbing as indicating an “act of vengeance over somebody that [Lockmiller] had hurt deeply,” not as “the act of a random person.” Freesmeyer Dep. (Pl. Ex. 16) at 197.

**RESPONSE:** Undisputed.

## **2. Garbage Bag Removed From Kitchen**

117. The fact that the perpetrator pulled a garbage bag out of a kitchen waste basket also correlates with burglary: “Burglars often seek out containers in the form of suitcases, pillow cases, garbage cans, or garbage bags with which to carry out stolen goods. These containers like the garbage container in Jennifer’s kitchen are often left in the middle of the floor if they are not needed.” Moses Report (Pl. Ex. 9) at 4.

**RESPONSE:** It is undisputed that plaintiff’s expert opined in his report as set forth in paragraph 117 but the report is improper hearsay and the opinion of plaintiff’s expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). Further, Beaman had a history of going

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through Lockmiller's garbage in order to find evidence of her being with other people. (Def. St. Facts ¶¶98, 67).

118. Freesmeyer claimed that the garbage bag inculpated Mr. Beaman and provided a basis for probable cause because Mr. Beaman once looked through Ms. Lockmiller's trash for birth control, because he believed she was cheating on him. Freesmeyer Dep. (Pl. Ex. 16) at 210-11.

**RESPONSE:** Undisputed.

119. The trash can in Ms. Lockmiller's bedroom was undisturbed. Bedroom Photos (Pl. Exs. 67-68).

**RESPONSE:** Undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

### 3. Box Fan

120. The box fan laid on top of the victim's face also correlates with burglary rather than murder by an acquaintance—it could have been knocked over during a burglar's rummaging, and it is also “not uncommon for a perpetrator to cover the head of his victim while he conducts his search.” Moses Report (Pl. Ex. 9) at 3.

**RESPONSE:** It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 120 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). Freesmeyer believed the fan covering Lockmiller's face was fitting a pattern where a person murders someone he knows than cannot face it. (Def. St. Facts ¶98). In addition, the box fan was owned by Swaine. (Def. St. Facts ¶76).

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121. Freesmeyer testified that one basis for probable cause was “[t]he fact that at the scene, there was a fan pulled down over her face which oftentimes is done when the victim – the suspect knows the victim.” Freesmeyer Dep. (Pl. Ex. 16) at 197.

**RESPONSE:** Undisputed.

**D. Defendants Treat Mr. Beaman’s Disengagement from the Relationship As Evidence of Guilt**

122. Mr. Beaman and Ms. Lockmiller mutually decided to end their relationship in July 1993. *See supra* ¶¶ 62-63. Ms. Lockmiller tried to rekindle their relationship, but Mr. Beaman was not interested. She called him 28 times shortly before her death, none of these calls were answered or returned. *See supra* ¶ 64. When the two did speak, on August 23rd, Mr. Beaman told Ms. Lockmiller he was no longer interested in dating. *See supra* ¶ 64.

**RESPONSE:** See defendants’ response to plaintiff’s statements of facts paragraphs 62-64.

123. According to McCrary, these circumstances would have demonstrated to reasonable investigators that Mr. Beaman was no longer interested in Ms. Lockmiller: “At the time Ms. Lockmiller was murdered it appears that she was attempting to rekindle her relationship with Mr. Beaman, but he wanted her out of his life. It was she who called Mr. Beaman repeatedly. He did not call her at all. There is no indication that he was demanding that she not leave him. In fact, he consistently maintained that he was done with her and wanted her out of his life.” McCrary Report (Pl. Ex. 55) at 24.

**RESPONSE:** It is undisputed that plaintiff’s expert opined in his report as set forth in paragraph 123 but the report is improper hearsay and the opinion of plaintiff’s expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

124. Freesmeyer somehow interpreted Ms. Lockmiller's calls, and her unrequited romantic interest in Mr. Beaman as evidence of his guilt and a basis for probable cause. Freesmeyer Dep. (Pl. Ex. 16) at 209-10.

**RESPONSE:** Paragraph 124 contains improper argument. However, it is undisputed that enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

**E. Defendants Hide Evidence Inculpating John Murray**

125. In *People v. Beaman*, the Supreme Court of Illinois unanimously held that Mr. Beaman's criminal defense attorney did not receive material, exculpatory evidence to which he was entitled under *Brady v. Maryland*, including the report of Murray's polygraph. *Beaman*, 229 Ill. 2d 56 at 80-81.<sup>1</sup>

**RESPONSE:** The decision in *People v. Beaman* is undisputed but language in a state court decision is not proper evidentiary support for facts alleged in response to a motion for summary judgment.

126. The attempt to polygraph John Murray on September 30, 1993, was made "[a]t the request of Detective David Warner." Murray Polygraph Docs. (Pl. Ex. 32) at 2. The polygraph examiner's report was sent by the crime lab addressed to "Detective David Warner," and Defendant Warner received the report. Murray Polygraph Docs. (Pl. Ex. 32) at 2. *See also* Zayas Dep. (Pl. Ex. 8) at 120-22.

**RESPONSE:** The first sentence of paragraph 126 is disputed. Warner made Murray's polygraph appointment at the request of Daniels. (Def. St. Facts ¶87). Warner received the report and gave

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<sup>1</sup> In the Supreme Court opinion, John Murray is referred to as "John Doe."

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it to Daniels. (Def. St. Facts ¶87). Further, Zayas testified only that he assumed Warner received it. (Def. St. Facts Ex. 4, at 120-22).

127. Upon receiving the polygraph report regarding John Murray, the proper procedure would have been for to read it, submit it to central records, make copies of the report, disseminate copies of the report to all investigators working on the case, and ensure that Defendant Zayas received a copy of the report. Zayas Dep. (Pl. Ex. 8) at 120-22. Defendant Warner had been trained to follow this procedure. *Id.* See also Daniels Dep. (Pl. Ex.26) at 66266.

**RESPONSE:** It is undisputed that Zayas testified as set forth in paragraph 127 but these alleged facts are immaterial. Warner testified that he gave the report to Daniels upon receipt. (Def. St. Facts ¶87). It is undisputed that Daniels testified that he agreed with Zayas' testimony but could only speculate as to what Warner did with the report. Daniels does not deny getting the Murray polygraph report from Warner, but has no memory of it. (Def. St. Facts ¶89).

128. Rather than acting in accordance with this training, and providing a copy of the polygraph report to his supervisor (Defendant Zayas), Defendant Warner claimed that he handed the report to Detective Daniels (who was not Warner's supervisor). Warner Dep. (Pl. Ex. 41) at 38, 45-47. Detective Daniels, however, had no recollection of ever receiving the polygraph during the investigation. Daniels Dep. (Pl. Ex. 26) at 429. Detective Daniels had no reason whatsoever to believe that he lost or misplaced the polygraph report, and could not remember ever losing or misplacing an original copy of any investigative report in the course of his career. *Id.* at 725. See also *id.* at 667-68.

**RESPONSE:** The first sentence of paragraph 128 contains improper argument with regard to Warner's training. Therefore, defendants dispute it. The remaining portion of the first sentence is

undisputed. Warner gave the report to Daniels because Daniels was the one who requested it and in charge of investigating Murray. (Def. St. Facts ¶87). Warner assumed Daniels would give the report to Zayas (Def. St. Facts Ex. 3, at 46). It is undisputed that Daniels testified as set forth in the last sentence of paragraph 128, but these alleged facts are immaterial to what he did with the Murray report because he has no memory of receiving it.

129. Warner never gave the Murray polygraph report to Souk. Souk Post-Conviction Dep. (Pl. Ex. 57) at 48.

**RESPONSE:** Disputed. Souk testified that he “did not have any recollection” of the Murray polygraph report. (Pl. Ex. 57, at 48). Warner testified that when he received the Murray polygraph report he gave it to Daniels but did not know what Daniels did with the report. (Def. St. Facts ¶87).

**F. Defendants Construe a Bank Video Showing Mr. Beaman 125 Miles from the Crime Scene on the Day of the Murder as Evidence of Guilt**

130. On September 24, 1993, Freesmeyer learned from Mr. Beaman’s bank, the Bell Federal Savings and Loan in Rockford, that Mr. Beaman made a videotaped deposit at 10:11 am on the day of the murder. Freesmeyer Police Reports (Pl. Ex. 7) at 26.

**RESPONSE:** Undisputed.

131. Freesmeyer retrieved the video on October 11. *Id.*

**RESPONSE:** Undisputed to the extent that Freesmeyer’s report states that he received the video from the bank on October 11, not that he “retrieved” it on that date. (Pl. Ex. 7, at 26).

132. The bank in Rockford lay approximately 125 miles from Ms. Lockmiller’s apartment in Normal. See [www.mapquest.com](http://www.mapquest.com) (distance between 1466 S. Alpine in Rockford and 412 N. Main in Normal).

**RESPONSE:** Undisputed according to [www.mapquest.com](http://www.mapquest.com).

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133. Rather than viewing the bank video as exculpatory, Freesmeyer considered it inculpatory and a basis for Mr. Beaman's arrest. Freesmeyer Dep. (Pl. Ex. 16) at 194, 200.

**RESPONSE:** Paragraph 133 contains improper argument. However, it is undisputed that during the course of the investigation, Freesmeyer asked Beaman several times whether he had gone anywhere after he got off work the morning of the murder. Beaman said he did not, and went straight to bed. In reality, Beaman had gone to the bank. As a result, Freesmeyer concluded Beaman was lying when he said he went straight to bed, which supported probable cause for Beaman's arrest and prosecution. (Def. St. Facts ¶98).

134. Freesmeyer thought that Mr. Beaman's not remembering his trip to the bank and not bringing it up when asked if he had information that would demonstrate his innocence somehow suggested dishonesty and guilt. Freesmeyer Dep. (Pl. Ex. 16) at 194, 200.

**RESPONSE:** Paragraph 134 contains improper argument. However, it is undisputed that during the course of the investigation, Freesmeyer asked Beaman several times whether he had gone anywhere after he got off work the morning of the murder. Beaman said he did not, and went straight to bed. In reality, Beaman had gone to the bank. As a result, Freesmeyer concluded Beaman was lying when he said he went straight to bed, which supported probable cause for Beaman's arrest and prosecution. (Def. St. Facts ¶98).

**G. Freesmeyer Manipulates Time Trials To Cast Doubt on Mr. Beaman's Alibi**

**1. Time Trials Involving the Drive to the Victim's Apartment**

135. Mr. Beaman's mother, Carol Beaman returned to her home, and could verify that Mr. Beaman was there, on August 25 at 2:15 p.m. Carol Beaman Trial Testimony (Pl. Ex. 59) at 1483-85; Carol Beaman Testimony, Hearing on Second Verified Amended Petition for Post-Conviction Relief Dec. 15, 2004 (Pl. Ex. 30) at 51.

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**RESPONSE:** It is undisputed that Carol Beaman testified as set forth in paragraph 135, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

136. Mr. Beaman could not have left Rockford at 10:11 a.m. (when bank video shows him making a deposit), killed Ms. Lockmiller, and been home by 2:15 p.m. Such a scenario would have given Mr. Beaman a window of four hours and four minutes (the time between the bank deposit at 10:11 and his mother's return home at 2:15) to drive from the Bell Federal Bank in Rockford to Ms. Lockmiller's apartment in Normal, remove most of Ms. Lockmiller's clothing and rape her, strangle Ms. Lockmiller, drive a pair of scissors into her chest, and drive back to his family residence in Rockford. *See* Souk Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief, Jan. 14, 2005 (Pl. Ex. 5) at 207 (agreeing that "generally" the prosecution's theory at trial required Mr. Beaman to "average 75 miles an hour, commit an unplanned crime in 5 to 15 minutes, and return home at the same speed").

**RESPONSE:** The first and second sentences of paragraph 136 are improper argument and not supported by a citation to the record: As a result, defendants dispute them. With regard to Souk's quote contained in the third sentence, it is undisputed that Souk testified as set forth in paragraph 136. However, it is immaterial because there was enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

137. When Defendant Freesmeyer drove at the speed limit from the Bell Federal Savings and Loan, to Ms. Lockmiller's apartment, and back to the Beaman family residence, it took him four hours and eleven minutes. Freesmeyer Police Reports (Pl. Ex. 7) at 53.

**RESPONSE:** Undisputed.

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138. Freesmeyer then decided to drive faster, exceeding the speed limit and driving at “an average [speed] of 75 mph.” *Id.* at 59, 60. At this speed, it took him one hour and forty-eight minutes to drive from Bell Federal Savings and Loan to Ms. Lockmiller’s apartment. *Id.* at 60. It took Freesmeyer one hour and fifty-six minutes to drive at this speed from Ms. Lockmiller’s apartment to Mr. Beaman’s family residence. *Id.* at 59. The total time for the two legs was three hours and forty-four minutes, which would have left Mr. Beaman only 20 minutes – to enter the apartment, commit the rape and murder, and leave.

**RESPONSE:** The first sentence of paragraph 138 contains improper argument and is an improper characterization of Freesmeyer’s time trial. (Def. St. Facts Ex. 8). The remaining portion of the first sentence of paragraph 138 is undisputed. The second and third sentences of paragraph 138 are undisputed. The fourth sentence of paragraph 138 is improper argument and not supported by a citation to the record. As a result, defendants dispute it.

139. Mr. Beaman could not have driven at an “average speed” of 75 miles per hour, *id.* at 59, 60. To average 75 miles per hour, one must, for example, drive at 90 miles an hour to compensate for any period of time during which one drives at 60 miles per hour. Joshua Whitney testified as follows regarding the condition of Mr. Beaman’s car:

Q. So what about [Mr. Beaman’s] piece of junk car, as you call it, would not allow him to get to and from Bloomington?

A. It was frequently breaking down. It had engine problems, suspension problems. We commonly referred to it as the millennium falcon, which in the Star Wars motif it was constantly breaking down and having problems that just wouldn’t allow for it to drive two hours down and two hours back without fitting into a perfect time frame as was being presented at the time.

....

Q. Well, Alan had that piece of junk car in Bloomington, right?

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A. Yes. And he had nursed it back up to Rockford on more than one occasion where he had to stop and get some part working, or he had to get it towed, I believe, on one occasion because it just stopped running.

....

Q. Did it break down during the time you were riding in it?

A. It did not break down at that time, but he had to do several sort of preventive maintenance things to keep it running, check the coolant, refill it, make sure that certain parts of it were working.

Whitney Dep. Excerpts (Pl. Ex. 60) at 70-72.

**RESPONSE:** The first two sentences of paragraph 139 contain improper argument and are not supported by citations to the record. As a result, defendants dispute them. It is undisputed that Joshua Whitney testified as set forth in paragraph 139, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

140. A college acquaintance of Mr. Beaman described the condition of Mr. Beaman's car during a drive from Bloomington to Tinley Park (a distance of approximately 114 miles) in the summer of 1993: "[I]t was kind of a joke at the time, because the car couldn't go very fast, you know, and having the other cars around us passing us. And it was kind of a piece of crap, you know..." Kuyper Dep. (Pl. Ex. 24) at 11. *See also id.* at 120-21.

**RESPONSE:** It is undisputed that Leigh Kuyper testified as set forth in paragraph 140, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110

141. Defendants knew about the condition of Mr. Beaman's car. Freesmeyer had seen the car at least twice: He took pictures of it and helped tow it. Freesmeyer Dep. (Pl. Ex. 16) at 223.

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**RESPONSE:** The first sentence of paragraph 141 is improper argument and not supported by a citation. Therefore, defendants dispute it. It is undisputed that Freesmeyer testified as set forth in the second sentence of paragraph 141, but these facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). In addition, time trials conducted during the investigation showed Beaman had the opportunity to commit the murder. (Def. St. Facts Ex. 8).

142. Freesmeyer never performed a time trial using a car similar to Mr. Beaman's, and could not recall whether it would have been possible for Mr. Beaman's car to travel at an average speed of 75 miles an hour – the speed at which Freesmeyer traveled – on an interstate highway. Freesmeyer Dep. (Pl. Ex. 16) at 224-25.

**RESPONSE:** It is undisputed that Freesmeyer testified to this but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

143. Other investigators were “doubtful” that Mr. Beaman could have made the trip from Rockford to Normal and back in time, considering the condition of Mr. Beaman's car. Daniels Dep. (Pl. Ex. 26) at 514.

**RESPONSE:** Paragraph 143 is disputed because it is not an accurate summary of Daniels' testimony. (Def. St. Facts Ex. 5, at 514).

## 2. Time Trials Between the Bank and the Beaman Residence

144. After visiting the bank, Mr. Beaman returned to his parents' residence, where he made phone calls at 10:37 a.m. and 10:39 a.m. It was undisputed that two calls were placed from the Beaman residence at 10:37 and 10:39. Beaman Residence Call Detail (Pl. Ex. 61) at 1; *Beaman*, 229 Ill. 2d at 62. The first call was placed to the church office of Mitch Olson, Mr.

Beaman's youth minister; the second was placed to Mr. Olson at his home. Beaman Residence Call Detail (Pl. Ex. 61) at 1; Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 151; *Beaman*, 229 Ill. 2d at 62. The calls lasted two minutes and one minute, respectively. Beaman Residence Call Detail (Pl. Ex. 61) at 1.

**RESPONSE:** The first sentence of paragraph 144 contains improper argument, and is not supported by any citation to the record and is therefore disputed. The remaining sentences of paragraph 144 are undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). In addition, citing to the *Beaman* case is improper evidentiary support.

145. Alan Beaman placed the calls at 10:37 and 10:39. While Mr. Beaman did not specifically remember making the calls, no one else could have done so. Carol Beaman Trial Testimony (Pl. Ex. 59) at 1500. Because Mr. Beaman's father, Barry Beaman, was at work at the time, there were only two individuals who could have made the calls – Mr. Beaman and his mother, Carol Beaman. Freesmeyer Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief Jan. 14, 2005 (Pl. Ex. 5) at 215; *Beaman*, 229 Ill. 2d at 62. Carol Beaman, a retired high school math teacher, was certain, both at trial and in Mr. Beaman's post-conviction hearing, that she did not make the calls. Carol Beaman Trial Testimony (Pl. Ex. 59) at 1499; Carol Beaman Testimony, Hearing on Second Verified Amended Petition for Post-Conviction Relief Dec. 15, 2004 (Pl. Ex. 30) at 44-45.

**RESPONSE:** The first sentence of paragraph 145 is improper argument, and not supported by a citation to the record. Therefore, defendants dispute it. Beaman testified only that he did not remember making the calls. (Pl. Ex. 6, at 1730-31). The second sentence is also disputed. Carol Beaman testified only that she did not know who made the calls. (Pl. Ex. 59, at 1500). The third

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sentence is undisputed but immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). The citation to the *Beaman* case is improper evidentiary support. It is undisputed that Carol Beaman testified as set forth in the fourth sentence but immaterial because, again, enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

146. Mrs. Beaman had no business with Mr. Olson on August 25, and she had never called Mr. Olson at his home. *Id.* at 45, 47. As a youth minister, Mr. Olson had a closer relationship with Mr. Beaman than with his mother. *See* Olson Testimony, Continued Hearing on Second Verified Amended Petition for Post-Conviction Relief Jan. 14, 2005 (Pl. Ex. 5) at 35-38, 41-42.

**RESPONSE:** It is undisputed that Carol Beaman and Olsen testified as set forth in paragraph 146. However, these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

147. Mr. Beaman had a reason to call Mr. Olson on August 25. At an upcoming church performance on Sunday, August 29, Mr. Beaman was going to sing and play the guitar, and Mr. Olson was going to accompany him on the keyboard; it was therefore necessary for them to arrange a time to practice. *Id.* at 45-48.

**RESPONSE:** It is undisputed that Carol Beaman testified as set forth in paragraph 147. However, these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

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148. The fact that Mr. Beaman was accounted for at his family's home at 10:37 and 10:39 provided a complete alibi. According to Robert Seyfried, Plaintiffs' expert in traffic engineering, it would have been impossible for Mr. Beaman to drive from his parents' residence to Ms. Lockmiller's apartment and back in the allotted time, except by averaging 81 miles per hour, a speed at which he "would have been observed by traffic enforcement personnel and he would have been cited for speeding." Seyfried Report (Pl. Ex. 45) at 4-5.

**RESPONSE:** The first sentence of paragraph 148 is disputed. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution, including time travel evidence. (Def. St. Facts ¶98-110). Second, it is undisputed that plaintiff's expert opined in his report as set forth in paragraph 98 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

149. Freesmeyer agreed that Mr. Beaman's returning to the family residence after leaving the Bell Federal Bank "would have crunched the opportunity down considerably," and made it very difficult to conceive of a scenario in which Mr. Beaman committed the murder. Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 65.

**RESPONSE:** It is undisputed that Freesmeyer testified as quoted in paragraph 149. However, enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). The remaining portions of paragraph 65 are disputed. Freesmeyer only testified as follows:

Q: Mr. Souk, I can tell you, has testified in his deposition that it would have made it very very difficult to conceive of that. Those aren't his exact words but that was his sentiment.

A: Sure, I would not disagree with that.

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(Pl. Ex. 34, at 65-66).

150. To support his theory that Mr. Beaman drove straight from the bank to Ms. Lockmiller's apartment, and did not make the 10:37 and 10:39 calls, Freesmeyer set out to discredit Mr. Beaman's ability to leave the bank at 10:11 and arrive at his parent's home by 10:37. Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 237-38. Freesmeyer knew there were two possible routes from the Bell Federal Savings and Loan to the Beaman residence: through downtown Rockford, and using Route 20 (the "bypass route"). *Id.* He performed time trials using both routes. *Id.* The trip through town took him 30 or 31 minutes. Freesmeyer Police Reports (Pl. Ex. 7) at 53; Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 237-38. The trip using the bypass route took only 25 minutes, Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 238, and showed that Mr. Beaman could have left the bank at 10:11 and made the calls at 10:37 and 10:39.

**RESPONSE:** The first sentence of paragraph 150 contains improper argument and an improper characterization of Freesmeyer's testimony. As a result, defendants dispute it. It is undisputed, however, that Beaman did not make the calls. The second, third and fourth sentences of paragraph 150 are undisputed but immaterial because enough evidence developed to establish probable cause for Beaman's arrest and prosecution. (Def. St. Facts ¶98-110). The fifth sentence contains improper argument with regard to whether Beaman could have made the calls, and is not supported by a citation to the record and is, therefore, disputed. The remaining portion of the fourth sentence is undisputed but immaterial for the reasons set forth above.

151. Freesmeyer memorialized only the *longer* time trial: "The time required to drive from Alan Beaman's residence to the Bell Federal Bank, observing all speed limits, was 31 minutes." Freesmeyer Police Reports (Pl. Ex. 7) at 53. He omitted the 25-minute time trial from his report. *Id.* at 1-61; Continued Hearing on Second Verified Amended Petition for Post-

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Conviction Relief, Jan. 14, 2005 (Pl. Ex. 5) at 91. Freesmeyer then destroyed his notes regarding time trials. Freesmeyer Dep. (Pl. Ex. 16) at 182-83.

**RESPONSE:** The first sentence of paragraph 151 is disputed but immaterial because Freesmeyer testified before the grand jury about both routes. (Def. St. Facts Ex. 20, at 237-238). The second and third sentences are undisputed but immaterial for the reasons set forth above.

152. While Freesmeyer mentioned the faster time trial to the grand jury, he concealed it at trial, as in his report. Freesmeyer Trial Testimony (Pl. Ex. 50) at 887-88.

**RESPONSE:** Paragraph 152 is improper argument with regard to Freesmeyer “concealing” anything at trial, and not supported by a citation to the record. Therefore, defendants dispute it. Further, paragraph 152 but immaterial because Freesmeyer testified before the grand jury about both routes. (Def. St. Facts Ex. 20, at 237-238).

153. In reality there was plenty of time between the bank deposit at 10:11 and the first call at 10:37 for Mr. Beaman to drive from the bank to his parents’ home: “[H]e could have easily made a bank transaction at 10:11 a.m. and traveled to his residence in time to make a phone call at 10:37 a.m.” Seyfried Report (Pl. Ex. 45) at 4.

**RESPONSE:** The first portion of paragraph 153 contains improper argument and is disputed. With regard to the quote from Seyfried’s report, it is undisputed that plaintiff’s expert opined in his report as set forth in paragraph 153 but the report is improper hearsay and the opinion of plaintiff’s expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

154. Freesmeyer agreed that his testimony at trial left the false impression that he had only tested the slower route through town. Freesmeyer Post-Conviction Dep. (Pl. Ex. 34) at 62, 64.

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**RESPONSE:** Paragraph 154 is disputed because it improperly characterizes Freesmeyer's testimony. (Pl. Ex. 34, at 62-65).

155. Freesmeyer lied in his report about his reasons for driving the slower route from the bank to the Beaman residence, claiming that he did so because Mr. Beaman told him that he took the slower route: "We then drove the routes that were given us by Alan *during numerous interviews*. The time required to drive from Alan Beaman's residence to the Bell Federal Bank, observing all speed limits, was 31 minutes." Freesmeyer Police Reports (Pl. Ex. 7) at 53 (emphasis added). Freesmeyer later admitted at trial that this statement in the report was untrue: "I don't recall he told me what route he took. He just said he went to the bank and back." Freesmeyer Trial Testimony (Pl. Ex. 50) at 928.

**RESPONSE:** The first sentence of paragraph 155 contains improper argument and therefore, defendants dispute it. Defendants deny that Freesmeyer "lied in his report." It is undisputed that Freesmeyer's police report contains the statements set forth in paragraph 155 but these facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). The third sentence of paragraph 155 also contains improper argument and an improper characterization of Freesmeyer's testimony as an "admission" and, therefore, it is disputed. Defendants deny that Freesmeyer admitted the statements in his report were untrue. It is undisputed that Freesmeyer testified as set forth in paragraph 155 but this testimony is immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

156. Freesmeyer also could not explain why he did not perform a time trial from the bank to the Beaman residence at a speed that exceeded the posted limit, just as he had done when

measuring travel time from the bank, to Ms. Lockmiller's apartment, and then back to the Beaman family home. Freesmeyer Testimony, Continued Hearing on Second Verified Amended Petition for Post-Conviction Relief, Jan. 14, 2005 (Pl. Ex. 5), at 89.

**RESPONSE:** Paragraph 156 contains improper argument and mischaracterizes Freesmeyer's testimony. Therefore, defendants dispute it.

157. As McCrary opined: "It is noteworthy that Detective Freesmeyer observed all speed limits when he drove the route through Rockford in support of his theory that [Mr. Beaman] could not have gotten home in time to make those phone calls, but admittedly sped as he drove to and from Normal to prove that he could make that trip before his mother got home and saw his car." McCrary Report (Pl. Ex. 55) at 18.

**RESPONSE:** It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 157 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

158. Freesmeyer also lied about whether he performed the time trials from the bank to the Beaman family home prior to arresting Mr. Beaman. First, he claimed to have done so. Freesmeyer Dep. (Pl. Ex. 16) at 240-41. Then he admitted that he did not conduct the time trials until after arresting Mr. Beaman. *Id.* at 241-42. At that point, Freesmeyer could not explain his failure to conduct the time trials before the arrest. *Id.* at 242-43.

**RESPONSE:** Paragraph 158 contains improper argument and mischaracterizes Freesmeyer's testimony. Therefore, defendants dispute it. Defendant deny that Freesmeyer lied.

159. According to McCrary, Freesmeyer's failure to investigate Mr. Beaman's alibi prior to arresting him was "completely contrary to the expectations of a reasonable law

enforcement investigation. Reasonable law enforcement investigations require that all logical investigation be completed in order to make a determination if probable cause exists to charge anyone.” McCrary Report (Pl. Ex. 55) at 16.

**RESPONSE:** It is undisputed that plaintiff’s expert opined in his report as set forth in paragraph 159 but the report is improper hearsay and the opinion of plaintiff’s expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

### 3. Time Trials Involving Carol Beaman’s Route

160. In addition to the fact that Alan Beaman had plenty of time to leave the bank at 10:11 and arrive home well before placing the 10:37 call, *see supra* ¶ 153, records made it clear that Carol Beaman could not have been home at 10:37 and therefore could not have placed the calls. Carol Beaman’s schedule that morning was well documented. She had signed in her mother at a convalescence facility, Independence Village, at 10:00 a.m. Carol Beaman Testimony, Hearing on Second Verified Amended Petition for Post-Conviction Relief, December 15, 2004 (Pl. Ex. 30) at 33. Mrs. Beaman recalled with specificity what she did to assist her mother at the facility, and after describing those tasks, estimated that she spent 20 to 30 minutes in her mother’s room following the sign-in at 10:00 a.m. *Id.* at 33-36.

**RESPONSE:** The first sentence of paragraph 160 contains improper argument and is disputed. See also response to plaintiff’s statement of facts paragraph 153. It is undisputed that Carol Beaman testified as set forth in paragraph 160 at the post-conviction hearing but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

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161. After completing the process of settling her mother into her room, Mrs. Beaman went shopping at a Wal-Mart. *Id.* at 37. The Wal-Mart register receipt shows that Mrs. Beaman paid for her items at 11:10 a.m., and that she purchased numerous objects at various locations within the vast store. *Id.* at 40-43. Mrs. Beaman went directly from Independence Village to the Wal-Mart, and did not drive home between those trips. Carol Beaman Trial Testimony (Pl. Ex. 59) at 1499-1500. Mrs. Beaman stated she did not make the 10:37 and 10:39 a.m. phone calls. *Id.*

**RESPONSE:** It is undisputed that Carol Beaman testified as set forth in paragraph 161 at the trial but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

162. Additionally, the Wal-Mart was “directly across the street from Independence Village.” Carol Beaman Testimony, Hearing on Second Verified Amended Petition for Post-Conviction Relief, December 15, 2004 (Pl. Ex. 30) at 37. It would have been silly to visit Independence Village, drive home, and then drive *back* to the Wal-Mart, a twenty-one-mile round trip. Matens Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief, January 14, 2005 (Pl. Ex. 5) at 20.

**RESPONSE:** It undisputed that Carol Beaman testified as set forth in the first sentence of paragraph 162 at the post-conviction hearing but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). The second sentence of paragraph 162 contains improper argument and an improper characterization of Matens’ testimony at the post-conviction hearing and is therefore disputed. (Pl. Ex. 5 at 20).

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163. Nonetheless, Detective Freesmeyer set out to show that Mrs. Beaman had the time to go home, place the 10:37 and 10:39 phone calls, return to the Wal-Mart, accomplish her shopping, get in line to make her purchases, and finish her transaction by 11:10. Freesmeyer cannot recall and made no record of the route he took between the Beaman home and the Wal-Mart. Freesmeyer Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief, January 14, 2005 (Pl. Ex. 5) at 115-16. Nor does he have a record or recollection of how fast he drove on the unknown route. *Id.* at 119. His timing was from on the street by the Beaman residence, rather than replicating Mrs. Beaman walking from her front door, getting situated in her car, and backing the vehicle out of the driveway. When he arrived at the Wal-Mart, Freesmeyer stayed in his car, rather than entering the store in order to reproduce the walking done by Mrs. Beaman. *Id.* at 120. Freesmeyer ultimately stated that it took him 15 minutes to drive between these locations, but qualified that figure as an approximation. *Id.* at 114-15. Freesmeyer stated he made no effort to quantify or replicate how long Mrs. Beaman was in the store. He conceded that he did not bring with him a copy of the receipt showing her purchases while inside Wal-Mart. Though Mrs. Beaman's shopping was two days before the start of school, Freesmeyer made no inquiries about the how long the cashier lines would be at that time. *Id.* at 121-22.

**RESPONSE:** Paragraph 163 contains improper argument and an improper characterization of Freesmeyer's testimony at the post-conviction hearing and is therefore disputed. The portions of paragraph 163 that are quotes from Freesmeyer's testimony at the post-conviction hearing are not disputed however alleged facts relating to the Wal-mart test are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

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164. Anthony Matens, an investigator engaged by Plaintiff's counsel, did measure the travel times required from just inside the Beaman home to just inside the Wal-Mart. He did multiple trials, and the least amount of time required was 19 minutes and 25 seconds. Matens Testimony, Continued Hearing on Second Verified Petition for Post-Conviction Relief, January 14, 2005 (Pl. Ex. 5) at 20-22. He calculated that by leaving that residence at 10:41, allowing under two minutes after the second phone call, Mrs. Beaman would not have pulled into the Wal-Mart parking lot until 11:00 a.m. *Id.* at 25.

**RESPONSE:** It is undisputed that Matens testified as set forth in paragraph 164 but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

**H. Defendants Ignore Evidence from the Victim's Neighbor that Eliminated Mr. Beaman as A Suspect.**

165. Ms. Lockmiller and David Singley lived directly across from each other in the small apartment building at 412 North Main Street. Hospelhorn Police Reports (Pl. Ex. 54) at 15; Singley Interview, Aug. 31, 1993 (Pl. Ex. 62) at 1. The proximity of the two apartments and the fact that the "walls [were] thin" enabled Singley to hear noises coming from Ms. Lockmiller's apartment. *Id.* at 7.

**RESPONSE:** Undisputed.

166. When Singley returned to his apartment from class at approximately 2:00 p.m. on the day of the murder, he heard the door to Ms. Lockmiller's apartment being "slammed shut real quick." *Id.* at 5. Approximately five to ten minutes later, he heard the door to Ms. Lockmiller's apartment "open and close again." *Id.* At this time, Singley heard that the stereo in Ms. Lockmiller's apartment was on. *Id.* at 6. Singley next heard footsteps going downstairs from Ms.

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Lockmiller's apartment and then exiting the door that leads from the building to the parking lot. Singley Interview, Sept. 8 1993 (Pl. Ex. 63) at 16.

**RESPONSE:** It is undisputed that Singley made these statements to the police but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). In addition, Freesmeyer and Souk believed Singley was mistaken about the day he heard these sounds in Lockmiller's apartment. Souk testified that "we believed [Singley] to be mistaken in some of the things he testified about . . . We had reason to believe he was a mistaken witness . . . Some of the [sounds] might have related to Friday, when it was certainly clear beyond any doubt that she was dead at that point." (Def. St. Facts Ex. 6, at 302-304). Freesmeyer testified during rebuttal in the criminal trial that he discounted Singley's observations as being inaccurate. (Def. St. Facts Ex. 19, at 1998-2000). Freesmeyer testified he believed Singley was inaccurate because: "First of all, nobody could pick out Mr. Swaine's vehicle from the photos we showed them. Second of all, Mr. Singley stated that he heard the door, that same door open and close on Friday as he did on Wednesday, and everybody on the team was in agreement that Miss Lockmiller was deceased long before Friday." (Def. St. Facts Ex. 19, at 2000).

167. When Singley returned to his apartment later that day at approximately 4:30 p.m., the stereo in Ms. Lockmiller's apartment had been turned off, and the TV had been turned on. Singley Interview Aug. 31, 1993 (Pl. Ex. 62) at 7-8; Singley Interview Sept. 8 1993 (Pl. Ex. 63) at 8. The TV remained on until Saturday, August 28, the day the body was discovered. Singley Interview Sept. 8 1993 (Pl. Ex. 63) at 14.

**RESPONSE:** It is undisputed that Singley made these statements to the police but these alleged facts are immaterial because enough evidence developed during the murder investigation about

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Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). In addition, Freesmeyer and Souk believed Singley was mistaken about the day he heard these sounds in Lockmiller's apartment. (Def. St. Facts Ex. 6, at 302-304); (Def. St. Facts Ex. 19, at 2000).

168. Around 2:00 p.m. on the day of the murder, Singley could also hear that the air conditioning to Ms. Lockmiller's apartment was off. *Id.* at 9. By 5:15, however, Singley reported that the air conditioning in Ms. Lockmiller's apartment had been turned on. Singley Interview Aug. 31, 1993 (Pl. Ex. 62) at 8; Singley Interview Sept. 8 1993 (Pl. Ex. 63) at 9.

**RESPONSE:** It is undisputed that Singley made these statements to the police but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). In addition, Freesmeyer and Souk believed Singley was mistaken about the day he heard these sounds in Lockmiller's apartment. (Def. St. Facts Ex. 6, at 302-304); (Def. St. Facts Ex. 19, at 2000).

169. Defendant Freesmeyer himself had conducted an interview of Mr. Singley, which was neither recorded nor transcribed, on the day the body was discovered. Freesmeyer Police Reports (Pl. Ex. 7) at 3.

**RESPONSE:** It is undisputed that Freesmeyer spoke to Singley on August 28, 1993 and that his police report summarizes his interview of Singley on that date. (Pl. Ex. 7, at 3).

170. Mr. Singley's statement suggested that Ms. Lockmiller was still alive at approximately 2:00, and that either she or someone else had changed the TV, stereo, and air conditioning well after 12:00 p.m. Souk Dep. (Pl. Ex. 47) at 312.

**RESPONSE:** Paragraph 170 contains improper argument and improperly characterizes Souk's testimony. As a result, defendants dispute it. Further, in Souk's mind, Beaman was the only real suspect. (Def. St. Facts. ¶113) and enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). Finally, both Freesmeyer and Souk believed Singley was mistaken about the day he heard these sounds in Lockmiller's apartment. (Def. St. Facts Ex. 6, at 302-304); (Def. St. Facts Ex. 19, at 2000).

171. The Singley evidence exculpated Mr. Beaman because it was well known early on in the investigation that Mr. Beaman was with his family in Rockford on the afternoon and early evening of August 25. Pl. Stmt. Aug. 28, 1993 (Pl. Ex. 42) at 6-7.

**RESPONSE:** Paragraph 171 contains improper argument and is disputed. Further, enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110), and both Freesmeyer and Souk believed Singley was mistaken about the day he heard these sounds in Lockmiller's apartment. (Def. St. Facts Ex. 6, at 302-304); (Def. St. Facts Ex. 19, at 2000).

172. According to McCrary, based on Mr. Singley's statements, "the time of death could easily have been closer to 2:00 PM and Mr. Beaman would then be eliminated as a suspect. Instead, the defendants purposely chose to ignore Mr. Singley's observations." McCrary Report (Pl. Ex. 55) at 20.

**RESPONSE:** It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 172 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

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173. On July 11, 1994, Defendant Freesmeyer committed perjury by telling the grand jury that no important information had been gleaned from Ms. Lockmiller's neighbors—thereby concealing the Singley evidence—during a portion of his testimony that involved the time of Ms. Lockmiller's death:

Q. Without going into individual details, were the other residents of the apartment building shortly after the discovery of the body, in the next few days, questioned extensively?

A. Yes. Actually while the crime scene technician was in processing the scene, I waited outside for people to come home. I was able to make contact with the majority of people who lived in that apartment. And they were subsequently asked to come to the station and statements were taken within several days.

Q. Would it be a fair summary of those interviews that all of them produced no eyewitnesses to the crime and no information that turned out to be particularly helpful in the investigation?

A. That's correct.

Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 141-42 (emphasis added).

**RESPONSE:** Paragraph 173 contains improper argument and is disputed. Defendants deny that Freesmeyer committed perjury or concealed evidence. The fact that Freesmeyer testified the neighbor interviews did not provide “information that turned out to be particularly helpful in the investigation” is not the same as saying that “no important information had been gleaned from Ms. Lockmiller's neighbors.”

174. Freesmeyer also perjured himself by lying about the existence of alternative suspects, especially John Murray. Although there was substantial evidence that John Murray had a motive and opportunity to commit the murder, *Beaman*, 229 Ill. 2d at 76-77; *see also* ¶¶ 16-49, *supra*, Freesmeyer testified as follows to the grand jury:

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Q. [O]ther than Mr. Beaman, were you able in the course of your investigation to locate any other person anywhere who had any conceivable motive to kill Jennifer Lockmiller?"

A. No, not necessarily.

Freesmeyer Grand Jury Testimony (Pl. Ex. 53) at 172.

**RESPONSE:** Paragraph 174 contains improper argument and is disputed. Defendants deny that Freesmeyer committed perjury. It is undisputed that Freesmeyer testified to this, but it is disputed that Murray had a motive to commit the murder or committed the murder. (Def. St. Facts ¶113).

**IX. FAIULRE TO INVESTIGATE ALTERNATIVE SCENARIOS AND SUSPECTS**

175. The record in this case contains no indication that Defendants considered similar crimes committed in the same geographical area, using other crimes as a potential source of leads in the Lockmiller murder investigation. Warner Dep. (Pl. Ex. 41) at 168; Brown Dep. (Pl. Ex. 14) at 212; Hospelhorn Dep. (Pl. Ex. 31) at 98; Souk Dep. (Pl. Ex. 47) at 210-211.

**RESPONSE:** Paragraph 175 contains improper argument with regard to the statement that the "record contains no indication." Therefore, defendants dispute it. The remaining part of paragraph 175 is disputed because it is not supported by the citations to the record. Warner, Brown, Hospelhorn and Souk all testified they did not know about the use of other crimes. Further, these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

176. Defendant Warner agreed that it would have been a good practice to check for crimes similar to the Lockmiller homicide. Warner Dep. (Pl. Ex. 41) at 172. The Mid-States Organized Crime Information Center ("MOCIC") maintains a database that enables investigators to gain leads in one crime by ascertaining whether similar crimes have occurred. *Id.* at 169-70.

**RESPONSE:** It is undisputed that Warner testified to this but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

177. Defendant Warner knew that Ms. Lockmiller spent time with several different men, would go to bars and meet people, had a number of sexual partners, and had a number of people moving in and out of her life. Warner Dep. (Pl. Ex. 41) at 153-54. Warner had no idea whether any investigation was undertaken as to whether the killer was an unknown sexual partner or “just some random person.” *Id.* at 149-51.

**RESPONSE:** It is undisputed that Warner testified as set forth in the first sentence of paragraph 177, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). The second sentence is disputed and immaterial. Warner testified he “did not recall” whether such an investigation was conducted. (Def. St. Facts Ex. 3, at 150). This testimony is immaterial for the same reason as stated above.

178. Defendant Zayas knew that Ms. Lockmiller “was always at parties, drank heavily, was very sexually active[.]” Zayas Dep. (Pl. Ex. 8) at 91. He could identify no piece of evidence that excluded the possibility that Ms. Lockmiller was killed by an unknown drifter. *Id.* at 178-79.

**RESPONSE:** It is undisputed that Zayas testified as set forth in the first sentence of paragraph 178, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). The second sentence is disputed and immaterial. Zayas testified that they investigated anyone that appeared to be a “likely responsible person.” (Def. St. Facts Ex. 4, at 178). It is immaterial for the same reason as stated above.

179. There also was no systematic effort to contact the individuals with whom Ms. Lockmiller had class, including the 11:00 a.m. class she likely attended immediately before the murder, in order to identify such individuals and find out who had last seen Ms. Lockmiller alive. The record is devoid of any evidence that such efforts were systematically undertaken, and Defendants have no recollection of such efforts. *See* Freesmeyer Dep. (Pl. Ex. 16) at 266-67; Hospelhorn Dep. (Pl. Ex. 31) at 99.

**RESPONSE:** The first sentence of paragraph 179 contains improper argument with regard to the word “systematic” because it is not supported by a citation to the record. Therefore, defendants dispute it. The remaining sentences in paragraph 179 are disputed but immaterial. Freesmeyer testified at his deposition that he did not remember. (Def. St. Facts Ex. 1, at 266). Hospelhorn testified he did not know if class rosters were pulled. (Def. St. Facts Ex. 2, at 99). These alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

180. According to McCrary: “The lack of a thorough victimology and failure to look for prior similar crimes, as well as known sex offenders and burglars in the area . . . unduly limited the scope of this investigation.” McCrary Report (Pl. Ex. 55) at 23.

**RESPONSE:** It is undisputed that plaintiff’s expert opined in his report as set forth in paragraph 180 but the report is improper hearsay and the opinion of plaintiff’s expert is immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

181. Although investigators learned that Ms. Lockmiller encountered and flirted with various unknown men in the days before her death, *see supra* ¶¶ 13-15, there was no effort to

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find and identify these individuals. While Kelly Hamburg did not know the full names of the men, he offered to find out. Hamburg Interview (Pl. Ex. 17) at AB001658. He believed that one of them was named Jeremy or Justin, and that an individual named Arthur Berron would be able to provide their identities. *Id.*

**RESPONSE:** The first sentence of paragraph 181 contains improper argument and is not supported by the record. As a result, defendants dispute it. It is undisputed that Hamburg made the statements to the police but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

182. The record contains no indication that investigators followed up on these leads. Defendant Warner admitted that these leads should have been investigated, but was not aware of any effort to do so. Warner Dep. (Pl. Ex. 41) at 161-64; *see also* Freesmeyer Dep. (Pl. Ex. 16) at 269-70.

**RESPONSE:** The first sentence of paragraph 182 is improper argument and not supported by a citation to the record. As a result, defendants dispute it. It is undisputed that Warner testified as set forth in the second and third sentences of paragraph 182, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110). Plaintiff improperly includes a citation to Freesmeyer's deposition testimony but does not include the specific testimony. As a result, defendants cannot answer it. Further, Freesmeyer only testified that he did not know whether their identities were investigated. (Def. St. Fact Ex. 1, at 269-70).

183. The record contains no evidence that investigators canvassed the bars that Ms. Lockmiller frequented or made a systematic effort to speak with bartenders, other staff, or bar

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regulars, regarding potential leads. Freesmeyer Dep. (Pl. Ex. 16) at 265; Brown Dep. (Pl. Ex. 14) at 213, 216; Warner Dep. (Pl. Ex. 41) at 150-53.

**RESPONSE:** Paragraph 183 contains improper argument with regard to the statement that the “record contains no evidence.” Therefore, defendants dispute it. The remaining part of paragraph 150 is disputed. Freesmeyer testified only that the police did not “canvas everybody [Lockmiller] knew.” (Def. St. Facts Ex. 1, at 265). Warner and Brown testified that they did not know. (Def. St. Facts Ex. 3, at 150-153); (Pl. Ex. 14, at 150-153). However, these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

184. The record lacks any indication of follow up regarding Mr. Hosey, *see supra* ¶56, including testing the substance that resembled blood or performing a criminal background check. Warner Dep. (Pl. Ex. 41) at 167-68; Freesmeyer Dep. (Pl. Ex. 16) at 271-72. A criminal background check should have been performed on Hosey, Warner Dep. (Pl. Ex. 41) at 167-68, and would have been an easy thing to do. Freesmeyer Dep. (Pl. Ex. 16) at 271.

**RESPONSE:** The first sentence of paragraph 184 contains improper argument with regard to the statement that the “record lacks any indication.” Therefore, defendants dispute it. Further, the first and second sentences are disputed because Warner testified there was no reason to run a test on the knives because the puncture wound was made by scissors. (Def. St. Facts Ex. 3, at 167). Warner also testified he “had no information” that a criminal background check was not run on Hosey. *Id.* Freesmeyer testified he did not remember about Danny Hosey. (Def. St. Facts Ex. 1, at 271). These alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

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185. The record contains no evidence of any follow up regarding "Psycho Bill," *see supra* ¶ 60. There was a database maintained by the Normal Police Department to identify individuals based on nicknames, but Warner was unaware of anyone using the database to attempt to identify "Psycho Bill." Warner Dep. (Pl. Ex. 41) at 134-35.

**RESPONSE:** The first sentence of paragraph 185 contains improper argument with regard to the statement that the "record contains no evidence" and it is not supported by the record. Therefore, defendants dispute it. The remaining sentence in paragraph 185 is disputed but immaterial. Warner testified only that he did not recall. (Def. St. Facts Ex. 3, at 135). However, these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

186. There is no evidence in the record of any follow up regarding Cory Price, "Joey Yok Yok Monster," and "Jason," who was "obsessed" with Ms. Lockmiller. *See supra* ¶ 61; Belcher Dep. (Pl. Ex. 15) at 143-44, 151-52.

**RESPONSE:** Paragraph 186 is disputed but immaterial. Belcher testified that he did not know. (Pl. Ex. 15, at 143-44, 151-52). However, these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

187. Defendant Zayas admitted that as of his retirement in November 1994 (well after Mr. Beaman's arrest in May 1994), the investigation had not excluded other suspects.

Q. And that process of foreclosing other suspects, in your mind, had not been accomplished as of November '94?

A. No, still had a lot of work to do.

Zayas Dep. (Pl. Ex. 8) at 182.

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**RESPONSE:** It is undisputed that Zayas testified to this but these alleged facts are immaterial. Enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

188. Defendant Freesmeyer could not remember whether he even cared about the existence of alternative suspects:

Q. Would you have cared about the possibility of there being an alternative suspect in the Lockmiller homicide investigation?

....

THE WITNESS: Looking back now, yes, I would have cared; *but I can't remember what my feelings were at that point, sir.*

Freesmeyer Dep. (Pl. Ex. 16) at 134 (emphasis added). Freesmeyer also did not remember whether he considered the evidence against Murray prior to the decision to arrest Mr. Beaman. *Id.* at 248.

**RESPONSE:** The first sentence of paragraph 188 contains improper argument and an improper characterization of Freesmeyer's testimony as cited in the record. Therefore, defendants dispute it. It is undisputed that Freesmeyer testified as set forth in the quote in paragraph 188, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

189. McCrary opines, "it is clear that John Murray was a more viable suspect than Mr. Beaman," but Freesmeyer "devalued all of this information about John Murray stating that the totality of those circumstances, 'did not raise a red flag that this is our person.'" McCrary Report (Pl. Ex. 55) at 21-22.

**RESPONSE:** It is undisputed that plaintiff's expert opined in his report as set forth in paragraph 189 but the report is improper hearsay and the opinion of plaintiff's expert is immaterial. Enough

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evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110, ¶113).

190. Defendants did not compare the unidentified finger-print on the murder weapon, *see* ¶ 104, *supra*, to Murray's fingerprints. *See* Dierker Trial Testimony (Pl. Ex. 56) at 489, 503-04 (indicating that the fingerprints on the clock were only checked against the known fingerprints of Alan Beaman, Michael Swaine, and Jennifer Lockmiller); Dierker Report Jan. 4, 1994 (Pl. Ex. 64) at AB000162.

**RESPONSE:** It is undisputed that Dierker testified as set forth in paragraph 190, but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman provided probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

191. According to Detective Daniels, the case against Mr. Beaman was not ready for charges to be filed because suspects such as Murray had not been eliminated, and the evidence implicating Murray was as strong, or stronger, than the evidence implicating Mr. Beaman. Daniels Dep. (Pl. Ex. 26) at 531, 559-60, 705; Hospelhorn Dep. (Pl. Ex. 31) at 158-59. The October 1994 arrest of John Murray on domestic violence charges, *see* ¶¶ 40-42, *supra*, deserved "more attention" in connection with the Lockmiller homicide investigation. Daniels Dep. (Pl. Ex. 26) at 500-01; *see also* Freesmeyer Dep. (Pl. Ex. 16) at 148 (stating that by the end of the investigation, Murray's alibi should have been thoroughly investigated); Warner Dep. (Pl. Ex. 41) at 115-16 (stating that the John Murray polygraph report suggested that further investigation of John Murray was necessary).

**RESPONSE:** It is undisputed that Daniels testified as set forth in the first and second paragraphs of 191, but his opinion is immaterial because enough evidence developed during the murder investigation about Beaman provided probable cause for his arrest and prosecution. (Def. St.

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Facts ¶98-110). Plaintiff cites to Hospelhorn's deposition but to no specific testimony – as a result, defendants cannot answer it. It is undisputed that Freesmeyer and Warner testified as set forth in paragraph 191, but these alleged facts are immaterial because Souk made the decision not to continue to investigate Murray. (Def. St. Facts ¶103). The quote from Freesmeyer also incorrectly implies Murray's alibi was not thoroughly investigated, so any inference that Murray's alibi was not thoroughly investigated is disputed.

192. Even though Mr. Beaman became the primary suspect on Day One, there was “no attempt to seize and conduct forensic examinations of his clothing and footwear for injuries and trace evidence,” the absence of which would have helped to clear him. Moses Report (Pl. Ex. 9) at 5.

**RESPONSE:** While it is undisputed that plaintiff's expert opined as set forth in paragraph 192, the opinion of plaintiff's expert is immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

#### **X. ARREST, FREEDOM, AND EXONERATION**

193. On May 16, 1999, at a meeting among investigators and prosecutors, a decision was made to charge Mr. Beaman with Ms. Lockmiller's murder. Daniels Dep. (Pl. Ex. 26) at 337-40; Freesmeyer Police Reports (Pl. Ex. 7) at 48.

**RESPONSE:** It is undisputed that the decision was made to charge Beaman on May 16, 1994, not 1999. The remaining alleged facts in paragraph 193 are undisputed.

194. At the meeting, Freesmeyer supported the decision to arrest Mr. Beaman. Freesmeyer Dep. (Pl. Ex. 16) at 79.

**RESPONSE:** Undisputed.

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195. Zayas, the head of the detective division, also participated in the meeting. Freesmeyer Police Reports (Pl. Ex. 7) at 48.

**RESPONSE:** Undisputed.

196. Daniels told his superiors that “if a warrant came down and they wanted me to execute the warrant on Alan Beaman, that I was going to refuse.” Daniels Dep. (Pl. Ex. 26) at 619.

**RESPONSE:** It is undisputed that Daniels testified as set forth in paragraph 196 but these alleged facts are immaterial because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

197. At the time of Mr. Beaman’s arrest, other investigators within the Normal Police Department did not believe that John Murray had been eliminated as a suspect. Arney Dep. (Pl. Ex. 65) at 14-15; Pantagraph Article April 12, 1997 (Pl. Ex. 66).

**RESPONSE:** Paragraph 197 is disputed and immaterial. The opinion of a Pantagraph reporter about the investigation is inadmissible based on lack of foundation and, in any event, is immaterial. At the time of Beaman’s arrest, enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶¶98-110).

198. Defendant Warner testified that he did not know whether all potential suspects in Lockmiller’s homicide, including Gates, were ever cleared. Warner Dep. (Pl. Ex. 41) at 142, 144-45.

**RESPONSE:** Paragraph 198 is disputed and immaterial. Warner testified only that he did not know because it “was not his responsibility to find out.” (Def. St. Facts Ex. 3, at 142).

C11753

199. Freesmeyer testified that, among the NPD investigators “there may have been doubts as to whether we had enough to convict [Mr. Beaman].” Freesmeyer Dep (Pl. Ex. 16) at 76.

**RESPONSE:** Paragraph 199 is disputed. Freesmeyer testified he referred only to Daniels and “there was no doubt as to whether we should arrest Alan Beaman.” (Def. St. Facts Ex. 1, at 76).

200. Mr. Beaman was arrested in May 1994 primarily because the spring semester was coming to a close; the Defendants had no reason to consider Mr. Beaman a flight risk. *Id.* at 312-13; Warner Dep. (Pl. Ex. 41) at 64-66.

**RESPONSE:** Disputed. Beaman was arrested because enough evidence developed during the murder investigation about Beaman to provide probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110).

201. Nearly fifteen years later, on May 22, 2008, the Supreme Court of Illinois granted Mr. Beaman’s post-conviction petition and vacated his conviction, allowing him to be released from prison. *People v Beaman*, 229 Ill. 2d 56 (2008). The States Attorney’s Office then dropped all charges. Souk Dep. (Pl. Ex. 47) at 63.

**RESPONSE:** The first sentence of paragraph 201 is undisputed but immaterial. The Illinois Supreme Court’s decision to vacate Beaman’s conviction years after he was convicted of murdering Jennifer Lockmiller is immaterial because evidence developed during the murder investigation about Beaman provided probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). The second sentence of paragraph 201 is undisputed. However, 13 years had passed since the trial and it would be a monumental effort on the part of the police and prosecutors to gather up all of the witnesses and evidence again. (Def. St. Facts ¶124).

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202. Mr. Beaman petitioned for a certificate of innocence. After receiving DNA testing requested and directed by the State, DNA Reports (Pl. Exs. 74 and 75), the State dropped its opposition to the petition, Certificate of Innocence (Pl. Ex. 1) at 1.

**RESPONSE:** The first sentence of paragraph 202 is undisputed. The second sentence is disputed. 13 years had passed since the trial and it would be a monumental effort on the part of the police and prosecutors to gather up all of the witnesses and evidence again. (Def. St. Facts 124).

203. On April 29, 2013, Mr. Beaman was declared innocent of the murder of Jennifer Lockmiller by the Circuit Court for the Eleventh Judicial District. Certificate of Innocence (Pl. Ex. 1) at 1-2.

**RESPONSE:** Undisputed but immaterial. Alan Beaman's receipt of a certificate of innocence 18 years after he was convicted of murdering Jennifer Lockmiller is immaterial because evidence developed during the murder investigation about Beaman provided probable cause for his arrest and prosecution. (Def. St. Facts ¶98-110). Moreover, under 735 ILCS 5/2-702(j), any finding made in a Certificate of Innocence proceeding has no impact in this civil proceeding.

204. The Normal Police Department has never attempted to run the recovered DNA through a national database.

**RESPONSE:** Paragraph 204 it not supported by a citation to the record and defendants dispute it. (Def. St. Facts Ex. 19, at 993).

205. Ms. Lockmiller's murderer remains at large.

**RESPONSE:** Paragraph 205 is not supported by a citation to the record and defendants dispute it.

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Respectfully submitted,

By:   
\_\_\_\_\_  
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4839-7358-6732, v. 1

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IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT  
MCLEAN COUNTY, ILLINOIS

ALAN BEAMAN, )  
)  
Plaintiff, )  
)  
v. )  
)  
TIM FREESMEYER, Former Normal Police )  
Detective; DAVE WARNER, Former Normal )  
Police Detective; FRANK ZAYAS, Former )  
Normal Police Lieutenant; and TOWN OF )  
NORMAL, ILLINOIS, )  
)  
Defendants. )

McLEAN COUNTY  
FILED  
APR 11 2014  
CIRCUIT CLERK

Case No. 14L51

JURY TRIAL DEMANDED

FIRST CASE MANAGEMENT CONFERENCE  
BEFORE JUDGE LAWRENCE  
SET ON 10.2.14 AT 10:00 AM/PM

COMPLAINT

Plaintiff, ALAN BEAMAN, by his undersigned attorneys, for his complaint against former Normal Police Detectives TIM FREESMEYER and DAVE WARNER, former Normal Police Lieutenant FRANK ZAYAS, and TOWN OF NORMAL, ILLINOIS, alleges as follows:

**INTRODUCTION**

1. Plaintiff Alan Beaman is an innocent man who spent more than 13 years in prison after he was wrongfully convicted at age 22 of the murder of Jennifer Lockmiller. Plaintiff's wrongful conviction was caused by the Defendants' immediate and unjustified fixation upon him as the murderer within hours after Ms. Lockmiller's body was discovered on August 28, 1993 in her Normal, Illinois apartment.

2. Plaintiff could not have committed the murder because, on the day it occurred, Plaintiff was in Rockford, Illinois, approximately 140 miles away, where he was in living in his parents' home and working as a maintenance man for his uncle's grocery chain.

C00016

3. Ignoring Plaintiff's alibi, Defendants Freesmeyer, Warner, and Zayas, framed Plaintiff for the murder. To pin the murder on Plaintiff, Defendants, *inter alia*, disregarded the fact that it was physically impossible for Plaintiff to have committed the murder, manipulated driving times in order to fabricate evidence that Plaintiff had an opportunity to commit the crime, withheld exculpatory evidence, lied under oath, ignored evidence exonerating Plaintiff, refused to follow up on obvious leads, and failed to meaningfully investigate suspects with the motive and opportunity to kill Lockmiller. Defendants, in sum, maliciously caused Plaintiff to be prosecuted for Lockmiller's murder.

4. Years later, in 2008, Plaintiff's wrongful conviction was vacated by unanimous vote of the Illinois Supreme Court. On April 29, 2013, after the McLean County State's Attorney dropped its opposition, this Court awarded Plaintiff a Certificate of Innocence, finding that Plaintiff "is innocent" of Lockmiller's murder.

5. By fixating on and prosecuting an innocent man, Defendants not only robbed Plaintiff of much of his life, but recklessly left Lockmiller's true killer on the streets. Plaintiff files this action for malicious prosecution, civil conspiracy, and intentional infliction of emotional distress to ensure the Defendants are held accountable for their actions and to seek compensation for the years of his life that he lost while imprisoned for a crime he did not commit.

#### VENUE

6. Venue is proper under 735 ILCS 5/2-101. The events giving rise to the claims asserted herein occurred in McLean County and Defendant Town of Normal is a municipal corporation located in McLean County.

**THE PARTIES**

7. Plaintiff Alan Beaman is a resident of Rockford, Illinois. At the time of the events alleged herein, Plaintiff was a student at Illinois Wesleyan University in Bloomington.

8. Defendant Timothy Freesmeyer was at all times relevant to this action employed as a Detective in the Normal Police Department. Defendant Freesmeyer participated in the Lockmiller murder investigation from its inception and, in or around October 1993, became the lead investigator. He advocated for, approved, and physically effected Plaintiff's arrest.

9. Defendant Dave Warner was at all times relevant to this action employed as a Detective in the Normal Police Department. Defendant Warner participated in the Lockmiller murder investigation and served as the evidence custodian, in charge of retrieving all of the physical evidence produced in the investigation. He interviewed witnesses and suspects, requested and received polygraph reports related to alternative suspects, and participated in Plaintiff's arrest.

10. Defendant Frank Zayas was at all times relevant to this action employed as a Lieutenant in the Normal Police Department. Defendant Zayas participated in, supervised, and ratified the decisions taken in the course of the Lockmiller murder investigation, including the decision to arrest Plaintiff without probable cause, until his retirement in November 1994

11. Defendant Town of Normal is an Illinois municipal corporation. At all times relevant to this action, the Town of Normal was the employer and principal of Defendants Freesmeyer, Warner, and Zayas.

**FACTUAL ALLEGATIONS COMMON TO ALL COUNTS****The Murder of Jennifer Lockmiller**

12. On Saturday, August 28, 1993, shortly after 2:00 p.m., Normal police officers, including Defendant Warner, were called to the apartment of Jennifer Lockmiller, a 21-year-old Illinois State University student. There they discovered Lockmiller's severely decomposed and partially unclothed body on the floor of her bedroom, with an electrical cord from an alarm clock wrapped around her throat and a box fan lying across her face. Lockmiller had also been stabbed with a pair of scissors, which were buried in her chest up to the handles. The autopsy, conducted the next morning, indicated that Lockmiller had died of ligature strangulation with the electrical cord from the alarm clock. Based on evidence as to when she was last seen as well as the decomposition of Lockmiller's body at the time of its discovery, investigators concluded that Lockmiller was killed on August 25.

13. The bizarre murder of a college student in her apartment quickly became a high profile story in the college towns of Normal and Bloomington, Illinois. It was just the third murder in the town of Normal in the past ten years. As students returned for the start of a new school year at Illinois State University in Normal and Illinois Wesleyan University in Bloomington, Defendants faced enormous pressure to "solve" the case. In response, they fixated quickly on a prime suspect.

**Malicious Fixation on Plaintiff**

14. In the summer of 1993, Plaintiff was a 20-year-old student at Illinois Wesleyan University, where he majored in technical theater. In August, Plaintiff had returned home to Rockford, Illinois to live with his parents and to work the night shift doing maintenance work at his uncle's grocery stores until his senior year at IWU began.

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15. Plaintiff is completely innocent of any involvement in the Lockmiller murder and has no knowledge of who committed the crime.

16. Plaintiff knew Lockmiller. The two had begun a romantic relationship in or around July 1992 and had broken off their relationship approximately one month prior to the murder. During the relationship, Plaintiff had visited frequently in Lockmiller's apartment (including overnight). The relationship had been marked by occasional conflict.

17. Based upon Plaintiff's past relationship with Lockmiller, investigators determined that Plaintiff should be investigated as a possible suspect. On the day Lockmiller's body was discovered, Town of Normal investigators Tony Daniels and Rob Hospelhorn were sent to Rockford, Illinois to locate and speak with Plaintiff.

18. Around 10:20 p.m. that evening, Plaintiff's car was pulled over in Rockford by the Winnebago County Sheriff's Department. Plaintiff was handcuffed and driven in a police vehicle to the Winnebago County Public Safety Building for questioning by Daniels and Hospelhorn. Daniels conducted an aggressive and accusatory interview in which he attempted to manipulate and browbeat Plaintiff into a confession. Plaintiff repeatedly told Daniels that he had spent the week prior to the discovery of Lockmiller's body in Rockford and had not been in the Bloomington-Normal area since early August.

19. Angry and traumatized by Daniels' unfounded accusations, Plaintiff terminated the interview.

20. By no later than August 29, the Defendants concluded that Plaintiff was the prime suspect in Lockmiller's murder. In their zeal to "clear" the case, Defendants fixated on Plaintiff, almost to the exclusion of every other person. The Defendants sought unsuccessfully to develop evidence showing that Plaintiff had killed Lockmiller. Innumerable investigative leads were

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ignored, disregarded or ineptly pursued as a result of the Defendants' malicious and single-minded fixation on Plaintiff as the perpetrator.

21. On September 1, 1993, Defendants arranged for Michael Swaine (Lockmiller's most recent known romantic partner and Plaintiff's former roommate) to engage Plaintiff in surreptitiously recorded conversations ("overhears") regarding Lockmiller's murder. Two such recorded conversations took place. In both Plaintiff maintained his ignorance of who committed the murder and confirmed that he had been in Rockford during the week Lockmiller's body was found. Thus, the overhears served only to corroborate Plaintiff's innocence of the crime.

22. Nonetheless, no later than October of 1993, having developed no evidence of Plaintiff's guilt and a full seven months before Plaintiff's actual arrest, Defendant Freesmeyer resolved, maliciously and wholly without justification, to arrest Plaintiff for the murder.

23. On October 27, 1993, Defendant Freesmeyer engaged Plaintiff in a conversation that was also surreptitiously recorded and during which Freesmeyer informed Plaintiff that he would, at one point or another, be arrested for the murder. Defendant Freesmeyer attempted to frighten Plaintiff into confessing by suggesting Plaintiff would get the death penalty if he did not confess. Plaintiff continued to maintain his innocence in this conversation and at all times throughout the investigation.

24. The Defendants' investigation never developed any eyewitness evidence placing Plaintiff in Bloomington-Normal, much less in the vicinity of Lockmiller's apartment, during the week prior to the discovery of Lockmiller's body.

25. The Defendants' investigation also failed to develop any physical evidence connecting Plaintiff to the crime. Two of Plaintiff's fingerprints were discovered on Lockmiller's alarm clock. As Defendants knew, Plaintiff often spent the night at Lockmiller's

apartment during the course of their romantic relationship. Plaintiff's fingerprints were placed on the alarm clock on one or more of the occasions on which Plaintiff had spent the night in Lockmiller's apartment.

26. In addition to Plaintiff's fingerprints, the alarm clock also had fingerprints that matched Michael Swaine (whom Defendants eliminated as a suspect) and a single unidentified print. Defendants never ran the unidentified print through a federal, state, or local automated fingerprint indexing system (AFIS). Other than the non-probative fingerprints, no physical evidence even arguably connected Plaintiff to the murder.

#### **Defendants Ignore Plaintiff's Alibi**

27. Plaintiff had a verifiable alibi for August 25, the date on which Defendants concluded that Lockmiller must have been murdered.

28. Lockmiller attended her 11:00 a.m. class on August 25. No witness saw her alive following the class. Lockmiller failed to appear at scheduled classes and meetings later in the day on August 25. When her body was discovered on August 28, it was badly decomposed, suggesting that she had been dead for a period of days. Although the time of Lockmiller's murder could not be precisely determined, this evidence suggested that she was murdered during the afternoon of August 25.

29. On the morning of August 25, Plaintiff went to the Bell Federal Savings & Loan in Rockford to make a deposit. He was shown on videotape leaving the bank at 10:11:43 a.m.

30. After leaving the bank, Plaintiff returned to his home, where he remained for the rest of the day. Phone records showed that at 10:37 a.m. that day, a two-minute phone call was placed to Plaintiff's church from the Rockford residence where Plaintiff was living with his parents, Carol and Barry Beaman. At 10:39 a.m., a one-minute phone call was placed from that

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residence to the home of Mitchell Olson, the church's director of youth ministries and music with whom Plaintiff had been working to prepare for a performance at the church that week. Plaintiff placed both calls. Plaintiff's mother left the family residence in the early morning in order to take her elderly mother to a doctor's appointment and did not return until the afternoon. Plaintiff's father was at work from early morning until evening. Neither could have made the calls and no one else had access to the phone in the residence.

31. Using a time-stamped grocery store receipt, Plaintiff's mother was able to document that she returned home at approximately 2:16 p.m. on August 25. When Mrs. Beaman returned home, Plaintiff's car was in the driveway, the door to Plaintiff's room was shut and the family dog was asleep outside Plaintiff's bedroom door. Plaintiff emerged from his bedroom at dinner time. (Plaintiff worked the night shift and typically slept until dinnertime each day.)

32. The Bell Federal videotape, the Beaman family residence phone records and Carol Beaman's grocery receipt and her observations upon returning home established that Plaintiff could not have murdered Jennifer Lockmiller in Normal on August 25. It is impossible for Plaintiff to have driven the 140 miles from Rockford to Normal, killed Lockmiller and then returned 140 miles to Rockford all within the three hour and 36 minute window between the conclusion of the 10:39 a.m. phone call and Mrs. Beaman's return home at 2:16 p.m.

#### **Defendants Withhold and Fabricate Evidence to Defeat Plaintiff's Alibi**

33. Faced with clear and obvious evidence that Plaintiff could not have committed the crime, the Defendants set about maliciously to defeat Plaintiff's alibi and to make it appear—with no basis in fact—that Plaintiff had an opportunity to murder Lockmiller. The Defendants created a timeline based on the false assumptions that (a) Lockmiller was killed precisely between 12:00 and 12:15 p.m. on August 25 and (b) Plaintiff was able to arrive at Lockmiller's

apartment in time to commit the murders because he was not the one who made the 10:37 and 10:39 a.m. phone calls at his home in Rockford.

34. In accordance with this timeline, if Plaintiff had driven at an average speed of over 70 miles per hour to and from Normal and had gained access to Lockmiller's apartment and killed her within the span of 15 minutes, it was possible (though it remained highly implausible) that Plaintiff committed the crime. To support the false timeline, Defendants needed to lie and withhold evidence from the grand jury regarding the time of Lockmiller's murder and to manipulate and conceal evidence regarding the time of travel between Bell Federal and Plaintiff's residence. Defendants did all of these things.

35. No physical or forensic evidence could actually pinpoint the time of Lockmiller's death. In the course of their investigation, the Defendants learned from David Singley, who lived in the apartment immediately across the hall from Lockmiller, that there had been activity within Lockmiller's apartment *after 2:00 p.m.* on August 25. Singley's apartment door was just a few steps from Lockmiller's, the apartments shared a common wall, and, because the walls were thin and poorly insulated, Singley could easily hear and identify noises emanating from Lockmiller's apartment.

36. Singley returned to his apartment from class at approximately 2:00 p.m. on August 25. As he entered the building, he heard the door to Lockmiller's apartment being slammed shut. Approximately five to ten minutes later, he heard the door to Lockmiller's apartment open and close again and noticed that the stereo in Lockmiller's apartment was on. Moments later, Singley heard footsteps going downstairs from Lockmiller's apartment and the sound of someone leaving the building.

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37. Singley left his apartment for a trip to the pool and returned at approximately 4:30 p.m. At that time, the stereo in Lockmiller's apartment was off and the TV was on at a high volume. (The TV remained on continuously from that point until August 28, when the body was discovered.) Singley also noted at around 5:15 p.m. that the air conditioning in the Lockmiller apartment was on; it had not been turned on earlier in the afternoon.

38. Singley's information flatly contradicted the Defendants' false timeline, in which Plaintiff had to have completed Lockmiller's murder by 12:15 p.m. in order to be sleeping in his bedroom in Rockford when his mother returned home at 2:16. Defendant Freesmeyer therefore withheld Singley's evidence from the grand jury that indicted Plaintiff, and falsely testified (in the portion of his grand jury testimony regarding the time of Lockmiller's death) that no important information had been gleaned from Lockmiller's neighbors.

39. Defendants' false timeline also depended on the theory that Plaintiff was not the one who made the calls in Rockford at 10:37 a.m. and 10:39 a.m. If Plaintiff had done so, it would have been impossible as a practical matter for him to drive the 140 miles to Normal and arrive there at 12:00 p.m. to commit the murder. The Defendants therefore concocted phony time trial evidence to make it appear that Plaintiff could not have driven the distance between Bell Federal and his residence in time to make the first of the calls, at 10:37.

40. There are two possible routes of travel between Bell Federal and Plaintiff's residence: the "bypass route," following U.S. Route 20, a high speed expressway, around Rockford to the residence, and the "downtown route," driving through downtown Rockford. Although the downtown route is more direct, the bypass route is faster. Plaintiff drove the bypass route and arrived home in sufficient time to make the call. If Plaintiff had driven through downtown Rockford (he did not) he likely would not have arrived in time for the call.

41. Defendants were well aware of the alternate routes. Defendant Freesmeyer timed both routes and confirmed that, following the bypass route, even if Plaintiff had scrupulously adhered to the speed limit, he would have arrived home within 25 minutes, in ample time to make the first phone call at 10:37 a.m.

42. Defendant Freesmeyer omitted any mention of this time trial (known as the bypass route time trial) in any written report or memorandum documenting the investigation. Defendant Freesmeyer also omitted any mention of the bypass route time trial in his courtroom testimony at Plaintiff's criminal trial. Instead, Freesmeyer testified that he had conducted a time trial of the *downtown route* and that the result of that time trial made it unlikely that Plaintiff would have arrived home in time to make the call. Freesmeyer testified that the downtown route was the "most direct" route from Bell Federal to Plaintiff's residence (intentionally implying, in order to mislead the jury, that the downtown route was the one Plaintiff took). In fact, Plaintiff did not return home through downtown Rockford; no one familiar with routes of travel in and around Rockford would take the downtown route between Bell Federal and Plaintiff's residence, as Defendants knew or should have known.

43. To account for the fact that someone had initiated the calls from Plaintiff's residence, Defendants and their co-conspirators (other police officers and McLean County prosecutors involved in the investigation and prosecution) concocted an implausible theory that Plaintiff's mother had finished taking her elderly mother to a doctor's appointment, dropped her mother at her nursing home, located ten miles from Plaintiff's residence; driven ten miles across Rockford to the residence in order to use the bathroom or let out the dogs, seen an answering machine message while home and made the 10:37 and 10:39 phone calls; and then returned to

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shop at a WalMart store that is located directly across the street from the nursing home. As Defendants knew, this implausible scenario was completely false.

**Defendants Ignore Evidence against Other Possible Perpetrators**

44. Defendants' fixation on Plaintiff as the murderer caused them to ignore evidence pointing to other possible perpetrators. Defendants brushed aside evidence that Lockmiller might have been killed by John Murray, a former boyfriend; by Stacy Gates, another former boyfriend; or by Rob Curtis, a disappointed suitor. Defendants never investigated the possibility that Lockmiller was killed in a random attack, even though Lockmiller lived on a busy thoroughfare in a transient college town and despite the Defendants' knowledge that Lockmiller led a high risk life style in which criminals, drug dealers, drug users, and short-term romantic partners floated in and out of her life. Defendant Freesmeyer has admitted that he could not remember whether he even cared about the existence of suspects other than Plaintiff at the time of the Lockmiller homicide investigation.

**i. John Murray**

45. John Murray was a physically imposing young man who dealt drugs, including to Lockmiller. Police reports from a 1993 arrest of Murray record that he purchased drugs for resale, and at one point purchased an entire pound of marijuana. Murray had a connection to a major dealer who was bringing in fifteen pounds of marijuana each week from Chicago to Normal.

46. John Murray also had an on-again, off-again sexual relationship with Lockmiller. At the time of her death, he was seeking to rekindle his relationship with her, as Defendants knew. After Lockmiller's murder, Murray bragged to police: "[S]he completely like wanted to

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go out with me still. Like if she was alive today she would be calling me wanting to go back out with me.”

47. Defendants also knew that Murray had a history of battering women. On October 7, 1994, Murray beat his girlfriend, who told police officers that she was “the victim of physical violence” at Murray’s hands “on a continual basis.” According to police records, Murray “pinned [the victim] down on the floor ... and elbowed her repeatedly in the chest;” “[a] friend of [the victim] ... was present and did verify that there was a prominent red mark between [the victim’s] breasts where she had been elbowed.”

48. Murray’s girlfriend averred in an October 11, 1994 Petition for Order of Protection that Murray had been experimenting with “street ‘steroid’ injections,” and that as a result of the steroid use, Murray’s “behavior since has been unexplainable.” Defendants knew that Murray’s steroid use began in January 1993. A police search of Murray’s apartment at that time revealed evidence that Murray had purchased fifteen vials of steroids and had used eleven of them.

49. During the Lockmiller homicide investigation, Murray lied to investigators about his whereabouts on the day of the murder. During an initial police interview, Murray falsely claimed that he had left Normal and driven home to the area of Rockford at 3:00 p.m. on August 24, the day before the murder. Murray claimed that he did not return to Normal until September 1.

50. In a second interview, Murray admitted that this information was not true and that, in fact, he had been alone in his apartment in Bloomington (about a mile and a half from Lockmiller’s apartment) on August 25 from 6:30 a.m. until 2:00 p.m. Murray also admitted that

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he left Normal in the late afternoon or early evening of August 25. The fact that Murray had given a false alibi was known to Defendants.

51. Defendants also knew that Murray lied about several other matters during his interviews with police, including: (1) the last time he saw Lockmiller alive; (2) his drug transactions with Lockmiller; (3) his attempts to collect payment for drugs from Lockmiller; and (4) his sexual relationship with Lockmiller.

52. Defendants asked Murray to take a polygraph examination in the course of the investigation. During the examination, Murray refused to follow instructions and engaged in behavior (taking deep breaths and failing to follow repeated instructions not to do so) that, according to the polygraph examiner, could have been a strategy to deliberately thwart the examination.

53. Defendant Warner received a polygraph examination report regarding Murray's suspicious polygraph examination. Defendants Freesmeyer and Zayas also learned about the polygraph report. The Defendants maliciously failed to disclose the report (and the fact of Murray's polygraph examination itself) to Plaintiff's criminal defense counsel.

54. Similarly, Defendants knew of the police reports regarding Murray's steroid and cocaine use, and his battery of his girlfriend. Defendants, acting in conspiracy with prosecutors, also secreted these reports, which were never disclosed to Plaintiff's criminal defense counsel.

55. Defendants never eliminated Murray as a suspect in the Lockmiller homicide.

56. During a 2013 deposition, Murray refused to answer any questions about both his history of violence toward women and his role in the Lockmiller homicide, asserting the Fifth Amendment right against self-incrimination.

**ii. Stacy Gates**

57. Stacy Gates was a former boyfriend of Lockmiller. Defendant Warner conducted an extensive interview with Gates as a result of which Defendants learned that Gates believed that he and Lockmiller had a committed relationship between January 1991 and July 1993 (the month before the murder), when Lockmiller broke up with him. Defendants further learned that at the time of Lockmiller's death, and despite the break up, Gates considered himself to be Lockmiller's "boyfriend, her man" and the most important person in her life. He viewed Lockmiller as "the love of [his] life," and believed he would marry her and have children with her.

58. Defendants Freesmeyer, Warner, and Zayas knew that Gates moved to Peoria, Illinois from Janesville, Wisconsin just three days before the murder. He relocated in order to be closer to Lockmiller. Gates and Lockmiller made plans to get together the weekend of August 28, *i.e.*, the weekend after the murder.

59. During the investigation, Defendants also attempted to polygraph Gates regarding the murder. The polygraph examiner scored every answer that Gates gave as "doubtful"/"inconclusive," and thought it was possible that every one of Gates' responses was a lie.

60. Defendant Warner requested and received the Gates polygraph report, and Defendants Zayas and Freesmeyer became aware of the report as well. Defendants withheld the Gates polygraph report from defense counsel.

61. Defendants never eliminated Gates as a suspect in the Lockmiller homicide.

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**iii. Rob Curtis**

62. Rob Curtis made an attempt to date Jennifer Lockmiller, but she stood him up. A former girlfriend of Curtis described him as a “weird and possessive type of person.” The former girlfriend told Defendants that she was at one point uncomfortable meeting with Curtis in private and insisted on meeting him at a public location. Defendants also learned of reports of Curtis stalking a woman.

63. Defendants also knew that following Lockmiller’s murder (and his unsuccessful attempt to date her), Curtis had reportedly said, “I don’t have to worry about dating her anymore.” Curtis also acknowledged that he “could have been a suspect” in the Lockmiller investigation.

64. Curtis had a criminal history of torturing cats to death. According to police documents, Curtis would hold the cats down while his accomplice broke the cats’ legs or tied them together. In the accomplice’s apartment, the torture included punching and choking the cats; breaking their legs with pliers; and clamping them down with vice grips. Curtis and the accomplice then drove the cats out to remote locations, where the cats were beaten to the point of being almost dead, at which point some of the cats were lit on fire and/or had their tails hacked off while they were still alive. Curtis stated, “I’ve never heard cats hiss like that before” and admitted that he “found [the torture] humorous” and sometimes laughed.

65. Defendants were aware of a trove of police documents in the Lockmiller homicide investigative file linking Curtis to the cat torture described in the preceding paragraph. They secreted this exculpatory evidence from Plaintiff’s trial counsel, who never learned of Curtis’ sadistic past.

66. Defendants never eliminated Curtis as a suspect in the Lockmiller homicide.

67. Despite the fact that Murray, Gates, and Curtis each had a motive to kill Lockmiller, Defendant Freesmeyer lied to the grand jury, claiming that the investigation uncovered no one, other than Mr. Beaman, with “any conceivable motive to kill Jennifer Lockmiller.”

**iv. Other Potential Suspects.**

68. In addition to Murray, Gates and Curtis, Defendants entirely ignored other investigative leads pointing to additional potential suspects.

69. Defendants learned that Lockmiller met a long-haired stranger in a bar just four days before her death. The man kept calling Lockmiller in the final days of her life. Defendants failed to take any steps to locate or investigate this individual.

70. Defendants learned that Lockmiller met two men in between two bars on the same night she encountered the long-haired stranger. One of these men wrote his number on a piece of paper with lipstick and gave it to Lockmiller. Lockmiller threw the piece of paper away. On the day before the murder, one of these men asked an acquaintance of Lockmiller why she had not called. Defendants Freesmeyer, Warner, and Zayas failed to take any steps to locate or investigate these individuals.

71. Defendants learned that a powerfully built man at one point appeared on Lockmiller’s doorstep in an overcoat and demanded to speak with her. He told the person who answered the door that he would “break the fucking door down.” Defendants failed to take any steps to locate or investigate this individual.

72. Defendants learned that an individual named “Psycho Bill” had dated Lockmiller, was rumored to lure women into his room and film them, and at one point seemed to be guiding

Lockmiller toward a closet. Defendants failed to take any steps to locate or investigate this individual.

73. Defendants made no systematic effort to attempt to locate individuals who attended the 11 a.m. class on August 25 with Lockmiller and determine who had last seen Lockmiller alive.

74. Defendants did not consider whether similar crimes committed within the same geographical area could provide a source of leads in the Lockmiller homicide investigation.

**Plaintiff Is Arrested and Charged without Probable Cause**

75. On May 17, 1994, Defendants arrested Plaintiff and caused him to be charged with Jennifer Lockmiller's murder based upon this fraudulent and woefully incomplete investigation.

76. There was no probable cause for the arrest or for the charges. As of May 17, Defendants had developed no evidence against Plaintiff that was not already known to them on August 29, 1993, when they maliciously and without justification fixated on Plaintiff as the murderer:

- i. Plaintiff made no inculpatory statements during the investigation. To the contrary, he repeatedly and steadfastly maintained that he was innocent and had no knowledge of who committed the murder.
- ii. No eyewitness reliably placed Plaintiff anywhere near the murder scene at any time during the week the murder occurred.
- iii. No physical evidence connected Plaintiff to the crime. Plaintiff's fingerprints on Lockmiller's alarm clock merely confirmed the known fact

that Plaintiff had used the clock when he was an overnight guest in Lockmiller's apartment.

77. As of May 17, Defendants' investigation had established that Plaintiff had a verifiable alibi for the date and time of the murder.

78. As of May 17, Defendants' investigation had established that John Murray, Stacy Gates, Rob Curtis and potentially others were suspects in the murder. As of May 17, none of these individuals had been eliminated as a possible perpetrator.

79. Defendant Zayas has admitted that, at the time of his retirement in November 1994 – five months after Plaintiff's arrest in May 1994 – the case against Plaintiff was “in limbo,” “needed more work” and was not ready to be prosecuted.

80. Detective Tony Daniels, who had originally interviewed Plaintiff on August 29, had grave doubts about Plaintiff's guilt, which he expressed to Defendants. Daniels prepared a summary of the Lockmiller investigation for use in a “cold case conference” that he attended in Florida in April 1994 (one month before Plaintiff's arrest) on the instruction of Normal Assistant Chief of Police Walt Clark. Daniels' summary stated: “After nearly 100 interviews, five overhears, several polygraphs, the prime suspect still is Alan Beaman. *There is no real evidence that can point to Beaman as being the person responsible for Jennifer's death.*”

81. In March 1995, Plaintiff stood trial in the Circuit Court of McLean County for the murder of Jennifer Lockmiller. He was convicted and sentenced to a term of 50 years in the Illinois Department of Corrections.

82. Plaintiff's trial was fundamentally unfair, as the Illinois Supreme Court found in a unanimous opinion issued in 2008 that reversed the conviction. During the trial, McLean County prosecutors presented a wholly circumstantial case in which they contended that Plaintiff must

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have been the murderer because (a) all other potential suspects were eliminated and (b) Plaintiff's alibi was insufficient.

83. In furtherance of these false contentions, the prosecutors, with the assistance and cooperation of Defendants, concealed and secreted evidence that cast considerable suspicion upon John Murray, and thereby succeeded in preventing the jury from learning about Murray and other individuals who were not eliminated as suspects. In addition, the prosecutors concealed evidence and misled the jury regarding the travel time between Bell Federal and Plaintiff's residence.

**Defendants Conspire Among Themselves  
And With Others to Maliciously Prosecute Plaintiff**

84. Defendants conspired among themselves and with others, including other Town of Normal investigators and McLean County prosecutors, to maliciously prosecute Plaintiff for the murder of Jennifer Lockmiller. They accomplished the goals of their conspiracy in the manner set forth in the preceding paragraphs, including by failing to conduct a complete investigation, pursue leads, and consider alternative suspects; concealing and withholding information concerning alternative suspects; committing perjury; and manipulating time trials to discredit Plaintiff's alibi.

85. The Defendants and their co-conspirators reached their unlawful agreement and formed a common intent during the course of numerous meetings that occurred throughout the Lockmiller murder investigation and Plaintiff's criminal trial. The conspiratorial meetings included meetings on August 28 and August 29 (when Defendants and their co-conspirators agreed to focus their investigation on Plaintiff) and a meeting on May 16 (when Defendants and their co-conspirators agreed to arrest Plaintiff without probable cause).

86. Defendants' co-conspirators included lead prosecutor James Souk and other McLean County prosecutors. In furtherance of the conspiracy, the McLean County prosecutors persuaded a grand jury to indict Plaintiff by failing to inform the jury of the existence of alternative suspects and by concealing evidence concerning the time of Lockmiller's death. After Plaintiff was charged, the prosecutor-co-conspirators assisted in ongoing investigative activities, including participating in phony time trials that were used to falsely discredit Plaintiff's alibi. Prior to trial, the prosecutor-co-conspirators withheld from Plaintiff and his counsel significant information that cast suspicion upon John Murray and was therefore exculpatory of Plaintiff. In motion in limine hearings, the prosecutor-co-conspirators lied to the Court, telling the presiding judge there was no significant evidence that someone other than Plaintiff might have committed the crime and insisting that John Murray had "nothing to do with this case," despite their possession of concealed evidence that suggested the opposite. During closing arguments, co-conspirator Souk falsely told the jury that Plaintiff was the only person without an alibi who might have killed Lockmiller, despite his knowledge that Murray might have committed the crime and lacked any alibi whatsoever.

87. The actions of the prosecutor-co-conspirators, described in the preceding paragraph, were taken in furtherance of the conspiracy that originated with Defendants to charge and convict Plaintiff for the murder of Jennifer Lockmiller without regard to the lack of probable cause against Plaintiff.

88. Each of the Defendants also committed one or more overt acts in furtherance of the conspiracy to maliciously prosecute Plaintiff:

- a. Defendants Freesmeyer, Warner, and Zayas each knew that there was not probable cause to arrest Plaintiff. Defendant Freesmeyer was the lead

investigator on the case. Defendant Zayas was the supervisor in charge of the case. Defendants Freesmeyer and Warner were both involved in Plaintiff's physical arrest. They each had the power to stop the malicious prosecution, but they chose not to do so, and instead pressed for Plaintiff to be falsely arrested for Lockmiller's murder.

- b. Defendants Freesmeyer, Warner, and Zayas each disregarded alternative suspects and leads. They knew about the information developed in the investigation regarding alternative suspects, but they failed to insure that any of it was pursued.
- c. Defendant Freesmeyer manipulated and concealed driving time trials to discredit Plaintiff's alibi.
- d. Defendant Freesmeyer perjured himself before the grand jury in order to obtain Plaintiff's indictment.
- e. Defendant Warner requested and received the polygraph reports regarding Murray and Gates, which inculpated these individuals. Defendants Freesmeyer and Zayas knew about the reports. All three Defendants, acting in conspiracy among themselves and with others, conspired to secrete these reports from Plaintiff and his counsel.
- f. Defendants and McLean County prosecutors knew about Rob Curtis' history of torturing cats but conspired to conceal this information from Plaintiff and his counsel.

89. The Defendants' conspiracy continued throughout Plaintiff's prosecution, conviction, and years of wrongful incarceration as the Defendants continued to conceal their illegal actions from the light of the justice system.

90. As a proximate result of the Defendants' above-described misconduct, Plaintiff, just 22 years old at the time, was wrongfully convicted of murder and sentenced to 50 years in prison.

#### **Favorable Termination of Plaintiff's Prosecution**

91. On May 22, 2008, the Illinois Supreme Court unanimously vacated Plaintiff's conviction and remanded to the circuit court for a new trial. The Court held that the suppression of material exculpatory information relating to John Murray as an alternative suspect violated Plaintiff's constitutional right to due process under *Brady v. Maryland*. In light of "the tenuous nature of the circumstantial evidence against [Mr. Beaman]" and the nondisclosure of this Brady material, the Court concluded that "[w]e cannot have confidence in the verdict finding petitioner guilty of this crime."

92. On January 29, 2009, McLean County prosecutors chose not to re-try Plaintiff and dismissed all charges against him.

93. Thereafter, Plaintiff filed in this Court a Petition for Certificate of Innocence pursuant to 735 ILCS 5/2-702, seeking a judicial determination that he is innocent of the murder of Jennifer Lockmiller. On April 29, 2013, after McLean County prosecutors withdrew their opposition to the Petition, this Court entered an order granting the Petition and finding that Plaintiff "is innocent" of Jennifer Lockmiller's murder.

### Plaintiff's Damages

94. Plaintiff spent more than 13 years in prison for a crime he did not commit. He must now attempt to make a life for himself outside of prison without the benefit of more than a decade of life experiences.

95. The emotional pain and suffering caused by Plaintiff's experience in prison has been substantial. During his incarceration, which began at the age of 22, he was stripped of the basic pleasures of human experience, from the simplest to the most important, which all free people enjoy as a matter of right. While his classmates graduated from college, pursued graduate degrees, built careers, fell in love, and started families, Alan Beaman spent the majority of his twenties and half of his thirties behind bars. He missed the funerals of three grandparents and countless birthdays, holidays, and other family events. He was deprived of the fundamental freedom to live his life as an autonomous human being.

96. During his time in maximum-security facilities, Plaintiff feared for his life on a daily basis. In Menard Correctional Center, where gangs dominated the prison culture, a counselor advised Plaintiff that his best chance of making it out of prison alive was to join a gang. Plaintiff did not do so, and thereby put his life at risk.

97. Plaintiff was 35 years old when he was released from prison. Although he has worked hard to rebuild a life outside of prison, many of the "normal" aspects of daily life remain foreign to him. Plaintiff was deprived of 13 years of life experiences that would have prepared him for his current roles in free society. He lost 13 years of opportunity to work and save for the future. The process of "catching up" on 13 years of life in the outside world is more difficult because of the lingering psychological and emotional effects of imprisonment. Plaintiff suffers from posttraumatic stress disorder and regularly experiences insomnia and anxiety attacks.

98. As a result of the foregoing, Plaintiff has suffered tremendous damage, including but not limited to personal physical injury, pain and suffering, loss of income, and loss of a normal life, all proximately caused by Defendants' misconduct.

99. To this day, Plaintiff continues to experience psychological pain and suffering, and emotional distress, including humiliation, constant fear of law enforcement and imprisonment, anxiety, insomnia, despair, rage, and other physical and psychological effects from his years of wrongful incarceration.

**Count I**  
**Malicious Prosecution**

100. Each paragraph of this Complaint is incorporated as if restated fully herein.

101. All of the individual Defendants and others, including other investigators and McLean County prosecutors, acting individually, jointly, and in conspiracy, initiated and continued a prosecution against Plaintiff, knowing that probable cause did not exist to arrest and prosecute him for the murder of Jennifer Lockmiller.

102. As described above, Defendants knew that no true or reliable evidence implicated Plaintiff in the Lockmiller murder, and that more viable alternative suspects in the crime had not been properly investigated or cleared.

103. Defendants intentionally failed to pursue leads that could have led to the actual assailant, and instead initiated and continued the prosecution of Plaintiff in order to close the Lockmiller murder case, without regard for Plaintiff's guilt or innocence. Defendants concealed evidence and misled the grand jury.

104. The Defendants identified above accused Plaintiff of murdering Lockmiller knowing those accusations to be without probable cause. Defendants made statements to

prosecutors with the intent of exerting influence to institute and continue unjust proceedings against Plaintiff.

105. The initiation and continuation of the criminal proceedings against Plaintiff were the result of improper conduct by the Defendants. All of the individual Defendants intentionally withheld from and misrepresented to Plaintiff, his attorney, the grand jury and the Court facts that implicated alternative suspects, and substantiated Plaintiff's alibi.

106. The judicial proceedings against Plaintiff were instituted and continued maliciously, resulting in injury to Plaintiff.

107. Defendants performed all of the above-described acts deliberately, with malice, and with reckless disregard for Plaintiff's rights.

108. The criminal proceedings against Plaintiff were terminated in Plaintiff's favor. On May 22, 2008, Plaintiff's conviction was vacated, and on January 29, 2009, the McLean County State's Attorney's Office *nolle prossed* his case. On April 29, 2013, Plaintiff was granted a Certificate of Innocence by the Circuit Court for the Eleventh Judicial District, based on a judicial finding that Plaintiff "is innocent" of Lockmiller's murder.

109. As a direct and proximate result of Defendants' misconduct, Plaintiff suffered, and continues to suffer, injuries as set forth above, including personal physical injury, physical and psychological pain and suffering, loss of income and emotional distress.

WHEREFORE, Plaintiff demands compensatory damages in an amount in excess of \$50,000.00 and punitive damages in an amount sufficient to deter similar misconduct, jointly and severally from the Defendants named in this Count, plus costs, attorneys' fees, and whatever additional relief this Court deems just and equitable.

**Count II**  
**Intentional Infliction of Emotional Distress**

110. Each paragraph of this Complaint is incorporated as if restated fully herein.

111. The acts and conduct of the individual Defendants set forth above were extreme and outrageous. Defendants willfully and maliciously framed Plaintiff for a crime he did not commit. Defendants' actions were rooted in the abuse of power and they were undertaken with intent to cause, or were in reckless disregard of the probability that their conduct would cause, severe emotional distress to Plaintiff, as is more fully alleged above.

112. The misconduct described in this Count was undertaken with malice, willfulness, and reckless indifference to the rights of others, as set forth in Count I.

113. As a direct and proximate result of the Defendants' actions, Plaintiff suffered, and continues to suffer, injuries as set forth including personal physical injury, physical and psychological pain and suffering and emotional distress, such as humiliation, constant fear of law enforcement and imprisonment, anxiety, insomnia, despair, rage, and other physical and psychological effects from his years of wrongful incarceration.

WHEREFORE, Plaintiff demands compensatory damages in an amount in excess of \$50,000.00 and punitive damages in an amount sufficient to deter similar misconduct, jointly and severally from the Defendants named in this Count, plus costs, attorneys' fees, and whatever additional relief this Court deems just and equitable.

**Count III**  
**Civil Conspiracy**

114. Each paragraph of this Complaint is incorporated as if restated fully herein.

115. As set forth above, Defendants, acting in concert with one another, with other investigators and with McLean County prosecutors, conspired by concerted action to accomplish an unlawful purpose by unlawful means.

116. Each of the Defendants entered into an agreement in or around August 1993 to maliciously prosecute Plaintiff for Jennifer Lockmiller's murder, knowing there was no probable cause to do so, in order to close the Lockmiller murder case.

117. In furtherance of the conspiracy, the Defendants committed overt and unlawful acts as fully set forth above, including obtaining Plaintiff's arrest without probable cause, willfully and maliciously instigating and promoting his prosecution without probable cause, committing perjury in judicial proceedings as to exculpatory evidence revealed during the investigation, withholding exculpatory information from Plaintiff, his attorney, the grand jury, and the Court, and causing the intentional infliction of emotional distress upon Plaintiff, as described in Count II.

118. The misconduct described in this Count was undertaken intentionally, with malice, willfulness, and reckless indifference to the rights of others.

119. As a direct and proximate result of the Defendants' conspiracy, Plaintiff suffered damages, including personal physical injury, severe emotional distress and anguish and loss of income, as is more fully alleged above.

WHEREFORE, Plaintiff demands compensatory damages in an amount in excess of \$50,000.00 and punitive damages in an amount sufficient to deter similar misconduct, jointly and severally from the Defendants named in this Count, plus costs, attorneys' fees, and whatever additional relief this Court deems just and equitable.

C00043

**Count IV**  
**Respondeat Superior Against Town of Normal**

120. Each paragraph of this Complaint is incorporated as if restated fully herein.

121. In committing the acts alleged in this Complaint and in Counts I through III, each of the individual Defendant were members of, and agents of, the Normal Police Department, acting at all relevant times within the scope of their employment.

122. Defendant Town of Normal is liable as principal for all torts in violation of state law committed by its agents.

WHEREFORE, Plaintiff demands compensatory damages in an amount in excess of \$50,000.00 from Defendant Town of Normal, plus costs, attorneys' fees, and whatever additional relief this Court deems just and equitable.

**Count V**  
**745 ILCS 10/9-102 Against Town of Normal**

123. Each paragraph of this Complaint is incorporated as if restated fully herein.

124. Illinois law provides that public entities are directed to pay any tort judgment for compensatory damages for which employees are liable within the scope of their employment activities.

125. The individual Defendants are or were employees of the Normal Police Department who acted within the scope of their employment in committing the misconduct described herein.

WHEREFORE, pursuant to 745 ILCS 10/9-102, Plaintiff demands judgment against the Town of Normal in the amounts awarded to Plaintiff against the employee-defendants by way of judgment or settlement, including any and all amounts awarded for compensatory damages and costs and attorneys' fees.

**JURY DEMAND**

Plaintiff, ALAN BEAMAN, hereby demands a trial by jury.

Respectfully submitted,

**ALAN BEAMAN**

By:   
One of his attorneys

Locke E. Bowman  
David Shapiro  
Alexa Van Brunt  
Roderick and Solange MacArthur Justice  
Center  
Northwestern University School of Law  
357 E. Chicago Avenue  
Chicago, Illinois 60611  
(312) 503-0844

Jeffrey Urdangen  
Bluhm Legal Clinic  
Northwestern University School of Law  
375 East Chicago Avenue  
Chicago, Illinois 60611  
(312) 503-7413

STATE OF ILLINOIS )  
COUNTY OF MC LEAN )

SS

IN THE CIRCUIT COURT OF THE  
ELEVENTH JUDICIAL CIRCUIT

THE PEOPLE OF THE )  
STATE OF ILLINOIS )

VS.

NO. 94 cf 476

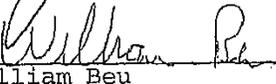
Alan Beaman )

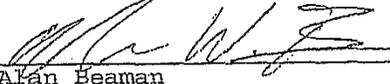
STIPULATION

It is hereby agreed by the People and the defendant that:

1. Exhibit A attached hereto is a listing based on phone company records of telephone calls between Alan Beaman and Jennifer Lockmiller from July 28, 1993 thru August 28, 1993.

  
 \_\_\_\_\_  
 James Souk  
 Assistant State's Attorney

  
 \_\_\_\_\_  
 William Beu  
 Attorney for Defendant

  
 \_\_\_\_\_  
 Alan Beaman  
 Defendant

C03057

**PEOPLE'S  
EXHIBIT**

R.7K1

McLean 001306

## Phone Contacts between Alan Beaman &amp; Jennifer Lockmiller

<u>Date</u>	<u>Time</u>	<u>Origination</u>	<u>Destination</u>	<u>Length</u>
07/28/93 [1533]	0633	CC - Ohio Alan Beaman	(309)452-9913 Jennifer Lockmiller	01:00
07/28/93 [1533]	0644	CC - Ohio Alan Beaman	(309)452-9913 Jennifer Lockmiller	01:00
07/28/93 [1533]	0649	CC - Ohio Alan Beaman	(309)452-9913 Jennifer Lockmiller	02:00
07/28/93 [1533]	0851	CC - Ohio Alan Beaman	(309)452-9913 Jennifer Lockmiller	01:00
07/28/93 [1533]	0931	CC - Ohio Alan Beaman	(309)452-9913 Jennifer Lockmiller	01:00
07/28/93 [1533]	1016	CC - Ohio Alan Beaman	(309)452-9913 Jennifer Lockmiller	84:00
07/31/93 [1533]	1903	CC - Ohio Alan Beaman	(309)452-9913 Jennifer Lockmiller	03:00
07/31/93 [1533]	1907	CC - Ohio Alan Beaman	(309)452-9913 Jennifer Lockmiller	08:00
08/05/93 [1334]	0152	(309)452-9913 Jennifer Lockmiller	(815)962-6540 Alan Beaman	00:00
08/08/93 [1389]	1211	(309)452-9913 Jennifer Lockmiller	(815)962-6540 Alan Beaman	38:52.4
08/10/93 [1389]	0146	(309)452-9913 Jennifer Lockmiller	(815)962-6540 Alan Beaman	00:00
08/10/93 [1389]	1617	(309)452-9913 Jennifer Lockmiller	(815)962-6540 Alan Beaman	59:00
08/17/93 [1538]	1143	(815)962-6540 Alan Beaman	(309)452-9913 Jennifer Lockmiller	00:13.8
08/19/93 [1390]	0019	(309)452-9913 Jennifer Lockmiller	(815)962-6540 Alan Beaman	00:00
08/22/93 [1369]	0730	(309)452-9913 Jennifer Lockmiller	(815)962-6540 Alan Beaman	00:00
08/22/93 [1369]	0825	(309)452-9913 Jennifer Lockmiller	(815)962-6540 Alan Beaman	00:00
08/22/93 [1370]	0826	(309)452-9913 Jennifer Lockmiller	(815)962-6540 Alan Beaman	00:00

C03058

McLean 001307

IN THE CIRCUIT COURT  
FOR THE ELEVENTH JUDICIAL DISTRICT  
McLEAN COUNTY, BLOOMINGTON, ILLINOIS

ALAN BEAMAN,	<b>FILED</b>	) COURT	Case No. 09-MR-338
<i>Petitioner.</i>			
	APR 29 2013		
	McLEAN		
	CIRCUIT CLERK		

**ORDER GRANTING CERTIFICATE OF INNOCENCE**

This cause comes before the Court for hearing on April 25, 2013, on Alan Beaman's Petition for a Certificate of Innocence Pursuant to 735 ILCS 5/2-702.

IT IS ORDERED:

The Court allows late notice of hearing on Petitioner's motion for judgment on the pleadings, which was filed on April 22, 2013.

Petitioner's motion for judgment on the pleadings, filed on April 22, 2013, is ALLOWED against McLean County.

The McLean County State's Attorney's Office having withdrawn its intervention and the Illinois Attorney General's Office not having intervened in this matter, default judgment is ALLOWED and entered against both McLean County and the State of Illinois.

The Court being fully advised finds by a preponderance of evidence that:

1. The Petitioner was convicted of first-degree murder by the State of Illinois in the County of McLean in McLean County case number 94 CF 476 and was subsequently sentenced to a term of imprisonment, and has served part of the sentence;
2. The Petitioner's judgment of conviction was reversed and a new trial was ordered, and he was not retried and all counts in the indictment were dismissed;
3. The Petition for a Certificate of Innocence was filed within 2 years of the dismissal of charges;
4. The Petitioner is innocent of the offenses charged in the indictment; and
5. The Petitioner did not by his own conduct voluntarily cause or bring about his conviction.

C03479

Plaintiff's Exhibit No. 1

IT IS THEREFORE ORDERED:

1. That the Petition for a Certificate of Innocence is GRANTED.
2. That the Clerk of the Circuit Court of McLean County shall transmit with all due speed a copy of the order granting a Certificate of Innocence to the Clerk of the Court of Claims, together with the Petitioner's current address as indicated on the civil cover sheet.
3. That the order entered in this cause on January 10, 2010, unsealing impounded and sealed court records, is hereby vacated, and it is ordered that the impounded and sealed records of the Clerk of the Circuit Court under *People v. Alan Beaman*, McLean County No. 94 CF 476, be resealed.
4. That the Order to Expunge and Seal entered in *People v. Alan Beaman*, 94 CF 476, on May 4, 2009, remains in full force and effect.
5. That any pretrial and trial dates previously set in this matter are hereby vacated.

Date: April 29, 2013

Enter:

STATE OF ILLINOIS  
 COUNTY OF McLEAN  
 I, the undersigned Clerk of the Circuit Court in and for the County of McLean, State of Illinois, do hereby certify that the foregoing is a true copy of the original instrument filed in my office.

Given under my hand and seal this 30  
 day of April 2013  
  
 Clerk of the Circuit Court  
  
 Deputy

C03480

STATE OF ILLINOIS  
 COUNTY OF McLEAN  
 I, the undersigned Clerk of the Circuit  
 Court in and for the County of McLean,  
 State of Illinois, do hereby certify that the  
 foregoing is a true copy of the original  
 instrument filed in my office.  
 Given under my hand and seal this  
 \_\_\_\_\_ day of \_\_\_\_\_  
 \_\_\_\_\_  
 Clerk of the Circuit Court  
 Debra

03481

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
CENTRAL DIVISION

Alan Beaman,

Plaintiff,

vs. Case Number 1:2010cv01019

James Souk, Charles Reynard, Tim Freesmeyer, Rob Hospelhorn, Dave  
Warner, John Brown, Frank Zayas, McLean County, Illinois and Town  
of Normal, Illinois

Defendants.

Deposition of Alan Wayne Beaman

Friday

December 14th, 2012

-at-

Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer P.C.

140 South Dearborn Street

15th Floor

Chicago, Illinois

## 1 APPEARANCES

2

3 For the Plaintiff:

4 Locke E Bowman

5 David M Shapiro

6 Alexa Anna Van Brunt

7 Roderick MacArthur Justice Center

8 375 East Chicago Avenue

9 Northwestern University School of Law

10 Chicago, Illinois 60611

11

12 For McLean County:

13 Elizabeth A Ekl

14 Elizabeth Kathleen Barton

15 Sotos Law Firm PC

16 550 East Devon

17 Suite 150

18 Itasca, Illinois 60143

19

20 For Town of Normal:

21 Thomas G DiCianni

22 Ancel, Glink, Diamond, Bush, DiCianni &amp; Krafthefer P.C.

23 140 South Dearborn Street

24 15th Floor

25 Chicago, Illinois 60603

1           RECORDER: And there we go. Today's date is December  
2   14, 2012. The time is 9:41 AM. We're located at the Law Offices  
3   of Ancel, Glink, Diamond, Bush, DiCianni & Krafthefer, at 140  
4   South Dearborn Street. We're at the 15th Floor, Chicago,  
5   Illinois. This is the case of Alan Beaman vs. James Soak or Souk?

6           MS. EKL: Souk.

7           RECORDER: Souk. S-o-u-k, and others. It's case  
8   number 1:2010cv01019, and it's a Northern District of Illinois  
9   case for the Central Division it appears. Would that be correct?

10          MS. EKL: Correct.

11          RECORDER: Okay. And the witness today is Alan  
12   Beaman. Mr. Beaman, this is one of those times. You got a middle  
13   name?

14          MR. BEAMAN: Wayne.

15          RECORDER: W-a-y-n-e?

16          MR. BEAMAN: Yes.

17          RECORDER: And Beaman is correctly B-e-a-m-a-n.

18          MR. BEAMAN: Yes.

19          RECORDER: Okay. I'm the notary public. I get to  
20   swear you in.

21          MR. BEAMAN: All right.

22                   (Witness sworn)

23          RECORDER: Counsel, state their appearances for the  
24   record.

25          MS. EKL: Elizabeth Ekl on behalf of the McLean County

1 defendants.

2 MS. BARTON: Elizabeth Barton also on behalf of the  
3 McLean County defendants.

4 MR. DiCIANNI: Thomas DiCianni for the Town of Normal  
5 defendants:

6 MR. BOWMAN: Locke Bowman for Mr. Beaman.

7 MR. SHAPIRO: David Shapiro for Mr. Beaman.

8 MS. VAN BRUNT: Alexa Van Brunt for Mr. Beaman and  
9 this is -- she is working under our supervision as a law student

10 --

11 RECORDER: Okay. That completes the required  
12 information under Federal Rule 30(b) and we can proceed.

13 MS. EKL: Thank you very much.

14 EXAMINATION

15 BY MS. EKL:

16 Q. Mr. Beaman, you spent over 13 years incarcerated for  
17 the murder of Jennifer Lockmiller, correct?

18 A. Yes.

19 Q. And during those 13 years, have you formulated an  
20 opinion as to who it is that killed Jennifer Lockmiller?

21 A. No.

22 Q. Jennifer was not a stranger to you, correct?

23 A. No.

24 Q. She was someone that you had dated?

25 A. Yes.

1 Q. She was someone that you had -- that you had loved,  
2 correct?

3 A. Yes.

4 Q. In fact, you loved her so deeply, that at one point,  
5 you were engaged to her, correct?

6 A. Yes.

7 Q. And how long did you know Jennifer before her death?

8 A. I think, it was a little over a year. Well, no, we  
9 were dating for a year. It was more like a year and a half to  
10 two.

11 Q. During that time, did you get to know her family?

12 A. Not very well.

13 Q. Did you meet any of her family members?

14 A. I did.

15 Q. And what family members did you get to know?

16 A. Her parents. I got to know her dad a little bit  
17 better than her mom.

18 Q. Did you also meet her friends?

0:01:15 19 A. Yes.

20 Q. And she also met --

21 A. Some of them.

22 Q. Okay. And she met some of your friends?

23 A. Yes.

24 Q. Is it fair to say that you knew about Jennifer's  
25 positive attributes?

1 A. Yes.

2 Q. You knew what it was that she liked?

3 A. Yeah.

4 Q. You knew her likes, in general, is that fair to say?

5 A. Yeah.

6 Q. Okay. And you knew where she liked to hang out?

7 A. Yeah.

8 Q. You knew who she liked to hang out with, correct?

9 A. Sure.

10 Q. You also knew about her faults as well, correct?

11 A. Yes.

12 Q. You knew that she had a number of insecurities?

13 A. Yes.

14 Q. You knew that she also had been involved in various

15 relationships with different men, correct?

16 A. She had been, yeah.

17 Q. You knew about her drug habit?

18 A. Yes.

19 Q. There were points in during your relat -- dating

20 relationships that you actually stayed at Jennifer's apartment,

21 correct?

22 A. Yes.

23 Q. And during those times, did you get to know her habits

24 a little bit better as well?

25 A. Yes.

1 Q. For instance, did you know whether or not she liked to  
2 lock -- she had a habit of locking her door when she came into the  
3 house?

4 A. She did tend to lock her door, yes.

5 Q. Do you think that there was anyone else back in 1993  
6 that knew Jennifer the way that you knew her?

7 MR. BOWMAN: Object to the form of the question. You  
8 can an --

9 WITNESS: Oh, I just keep going though. Okay.

10 MR. BOWMAN: From time to time, Alan, I'll make  
11 objections. If you should not answer the question, I'll tell you  
12 my judgment --

13 WITNESS: Okay.

14 MR. BOWMAN: -- that you shouldn't answer, but unless  
15 you hear that, you -- feel free to go ahead and answer the  
16 question.

17 WITNESS: Okay.

18 MR. BOWMAN: And give me a minute to consider whether  
19 I should make an objection, and then you just go ahead and answer.

20 A. Can you ask it again? I'm sorry.

21 Q. Sure. Sure. Do you think that there was anyone else  
22 that you're aware of, back in 1993 that knew Jennifer the way that  
23 you knew her?

24 MR. BOWMAN: Same objection.

25 A. I'm -- I'm sure there would have been people that knew

C03489

1 her better than me and I think every relationship is an individual  
2 relationship. So I -- I really can't say whether anyone knew her  
3 the way I knew her.

4 Q. Okay. Who do you think knew her better than you?

5 A. I'm sure some of her friends may have known her better  
6 than me.

7 Q. Over the years, while you were incarcerated, have you  
8 had a chance to review the police reports, and the transcripts of  
9 witness interviews that were taken in connection with the  
10 investigation of Jennifer's murder?

11 A. I've read much of them.

12 Q. And you did that while you were trying to fight your  
13 conviction, correct?

0:03:54 14 A. Yes.

15 Q. And during those 13 years, is it your testimony then  
16 that based on your knowledge of her and based on the things that  
17 you've read in the police reports and the things that you've  
18 learned in -- maybe for other -- from other places over those 13  
19 years, you haven't formulated any opinion as to who you think  
20 killed Jennifer?

21 A. I don't believe that I could do that. No, I don't.

22 Q. Did you at any point in time, formulate an opinion as  
23 -- an opinion as to who you think killed Jennifer?

24 A. I think I've been pretty clear over the course of time  
25 that I'm not sure who killed Jennifer.

C03490

1 Q. And taking aside you being sure about who killed her,  
2 who do you think killed her?

3 A. I really don't know.

4 Q. Before we get into further questions, I should go  
5 through some, just ground rules, so that we are on the same page.  
6 Obviously, the deposition's being videotaped as well as it'll  
7 eventually become a transcript, as well.

8 A. Mm-hmm.

9 Q. As a result, it's important that you answer yes or no  
10 to questions instead of saying mm-hmm or uh-huh.

11 A. I will try.

12 Q. Okay. Even though I can sit here and know what you  
13 mean by that by saying mm-hmm or uh-huh, if we're reading it in  
14 the transcript, the answer won't be clear. So if you can --

15 A. Right.

16 Q. -- do your best and I'll try to remind you.

17 A. Okay.

18 Q. It's also important that we don't talk over each  
19 other. So that we have a clear record, we want to have a question  
20 and then an answer. So I'll try to make sure that you've  
21 completed your answer before I ask you a question. Likewise, I'd  
22 ask that you wait until I finish my question. A lot of times in  
23 regular speech, you may guess what I'm going to ask you or know  
24 what -- how I'm going to finish the question, and therefore, be  
25 kind of inclined to answer right away, but if you could just go

1 ahead and let me finish it before I answer, we'll have a more  
2 complete record.

3 A. Okay. I'll try.

4 Q. Okay. Same thing with nodding of the head. If you  
5 can make sure you say yes or no instead of nodding your head up or  
6 down.

0:05:49 7 A. Okay.

8 Q. If at any point in the deposition, I ask you a  
9 question that you don't understand, it's important that you let me  
10 know that. Okay?

11 A. Okay.

12 Q. If you answer the question, I'll just assume that you  
13 understood it. Is that fair?

14 A. Okay.

15 Q. All right. I anticipate we'll probably be here for  
16 all day or at least a good portion of the day, and we'll plan on  
17 taking some regular breaks, but if, at some point, you need a  
18 break for any reason, just let us know, we can do that. The only  
19 thing I'd ask is that if I've asked you a question, you wait 'til  
20 the answer's over with before you ask for the break.

21 A. All right.

22 Q. All right. With that being said, Mr. Beaman, have you  
23 ever gone by any nicknames?

24 A. Not really. There's been nicknames that people have  
25 called me occasionally for a little while.

C03492

1 Q. Okay. What are some of those nicknames?

2 A. There were some people when I was a freshman in  
3 college that called me pup.

4 Q. Pup. And do you know how it is that you received that  
5 nickname?

6 A. I guess I -- I was kind of a follower in that group.  
7 There were several upper class men that I was friends with during  
8 that time, and -- and so because I was younger and impressionable,  
9 I was pup.

10 Q. Any other nicknames?

11 A. Variations of Beaman. Bman, Bmizzle, Beamanator. You  
12 can -- I could go on all day.

13 Q. Okay.

14 RECORDER: Can you spell Bmizzle for me?

15 (Laughter)

16 RECORDER: It's okay.

17 Q. Before your deposition here today, did you do anything  
18 to prepare?

19 A. Yes, I did.

20 Q. What did you do?

21 A. I read the transcripts of interviews and overhears. I  
22 don't know if I read everything, but I read several documents from  
23 discovery and trial. And had meetings to go over that  
24 information, and refresh my memory as best as I can.

25 Q. Who did you meet with?

C03493

0:08:11

1 A. Counsel.

2 Q. When did those meetings take place?

3 A. Over the last couple weeks.

4 Q. Do you remember about how many times you met?

5 A. Twice.

6 Q. And what was the length of each of those meetings?

7 A. Maybe five hours.

8 Q. Was that five hours total or five hours each?

9 A. Each, I would say. That's an approximation.

10 Q. What transcripts of interviews do you recall

11 reviewing?

12 A. I reviewed my interview with Tony Daniels. I reviewed

13 the overhears with Michael Swaine. And that -- as far as

14 interviews, I think that's -- I think that may be it.

15 Q. So were all the interviews that you reviewed,

16 interviews that involved you speaking, whether it was during the

17 overhear or with an officer?

18 A. Yes.

19 Q. Okay. Did you review any interview transcripts of

20 anyone else's interviews, any other witnesses?

21 A. I don't believe so.

22 Q. Okay. You said you also reviewed several documents

23 from discovery and trial. What documents do you recall reviewing?

24 A. I read the grand jury testimony, and I read trial

25 testimony. I think that's it for that too.

C0349

1 Q. And --

2 A. I think there was testimony at the bond hearing or  
3 something that I read, it was very short.

4 Q. And for each of the -- all the testimony that you  
5 reviewed, was it always your testimony that you were reviewing or  
6 did you also review, for instance, in the grand jury, the  
7 testimony of any other witnesses?

8 A. It was me.

9 Q. Okay. Anything else that you looked at or reviewed  
10 before coming here today, in preparation for your deposition?

11 A. Some other documents with the case. I think the  
12 complaint and maybe the interrogatories. I can't be sure I'm  
13 giving you everything.

14 Q. I understand. If there's anything that you think of  
15 that you reviewed as we go along, if you could just let me know  
16 that, I'd appreciate it. In 1993, you attended Illinois Wesleyan,  
17 correct?

18 A. Yes.

19 Q. And what was the ma -- your major or area of focus  
20 when you were studying there?

0:10:29 21 A. Technical theater.

22 Q. Could you just describe for me what that is?

23 A. Scenery and lighting were my primary areas. I did  
24 also study costuming and makeup briefly. But construction,  
25 design, engineering of scenery, rigging, and lighting design and

C03495

1 the rigging of lighting as well.

2 Q. Did you also take classes in acting during that time  
3 period?

4 A. I took the required classes, yes.

5 Q. What -- how many required classes did you have to take  
6 in acting?

7 A. There were two required acting classes. One that was,  
8 I believe, a full year, which was the freshman acting class. And  
9 then -- and then the soph -- I think it was the sophomore acting  
10 class was, I think, one semester, if I'm not mistaken.

11 Q. And throughout your time at school, did you also  
12 participate in the theater at the school or a theater near the  
13 school?

14 A. I mostly had production positions doing lighting,  
15 scenery. I was -- I think, I was course member in one man stage  
16 play, because they needed a guitar player. And I was in a couple  
17 of one acts for other students who were directing one acts. And I  
18 think I did a -- one other student project play.

0:12:06 19 Q. What is a one act?

20 A. It's a very short play that has no intermission.

21 Q. What was your role in that?

22 A. In one -- in one of them, I played a prison warden  
23 actually. And in the other one, I played a guard in a -- in an  
24 insane asylum.

25 Q. So those were actually times when you were acting as

C03496

1 opposed to working on the scenery or the sets?

2 A. Yes.

3 Q. Okay. And then when you said you've also worked on a  
4 -- a student production?

5 A. Those were student productions.

6 Q. Okay. Those were student productions. So those were  
7 the same thing as the one act or am I -- or was there something  
8 different?

9 A. Well, one of them was a one act that was part of a  
10 class, part of a directing class, and the other one was a -- the  
11 other one was a project that someone was doing as an independent  
12 study, in -- in what's called the Phoenix Theater at Wesleyan.  
13 It's much smaller and spartan.

14 Q. Other than the Phoenix Theater, what were the names of  
15 some of the other theaters that you worked in, either acting or  
16 working on scene production and construction engineering?

17 A. McPherson Theater, and I -- I acted in -- in -- yeah,  
18 I acted in one play in the -- in McPherson, I was a chorus member.  
19 And then I did several shows being either an electrician -- stage  
20 electrician, master electrician or tech director for -- for the  
21 McPherson Theater. And then in the Laboratory theater, I -- I  
22 probably had a project in the Lab Theater once or twice a year, at  
23 least.

24 Q. What sort of classes, if any, did you have to take to  
25 become a master electrician?

C03497

1 A. The phrase master electrician refers to the person  
2 who's in charge of the rigging and focusing on the lighting. It's  
3 not a -- it's not a class per se. It's -- it's a -- it's a job.

4 Q. Right. My -- my question is, did -- were there any  
5 classes you had to take to prepare you for that job?

6 A. No.

7 Q. Okay. Did you have any background in, say, electrical  
8 work, prior to going to school and -- and making this one of the  
9 focuses on your -- of your education?

10 A. Just lighting in high school.

11 Q. And could you describe that further, what that was?  
12 Like what kind of a class or what -- what you mean by, just  
13 lighting?

14 A. It's more of learning by doing. I designed lights for  
15 a play in my senior year in high school. And I -- for most of the  
16 plays, while I was there, I did some kind of technical  
17 participation with that, either for lighting or scenery or both.  
18 So by apprenticing with older students who knew more about it, I  
19 learned by doing.

20 Q. Okay. So you actually started in this area in high  
21 school as opposed to just starting in college?

22 A. Yeah.

23 MR. BOWMAN: Objection, vague.

24 Q. Did you understand my question? I just want to make  
25 sure you understood it. You answered it.

C03498

1 A. Can you restate it again?

2 Q. You understood -- under -- you answered it, so I was  
3 just making sure that you understood what you were answering.

4 A. I think so.

5 Q. Okay. Okay. Did you earn a degree from Illinois  
6 Wesleyan?

0:15:51 7 A. I did.

8 Q. And what was -- what degree did you earn?

9 A. Bachelor's of Fine Arts.

10 Q. When did you earn that degree?

11 A. It was 1995.

12 Q. And after 1995, did you continue your education in any  
13 manner?

14 A. While I was in prison, I did.

15 Q. And could you describe that for me? How did you  
16 further your education while you were in prison?

17 A. I took some math classes, and I took a -- an  
18 automotive training course through which I -- the original  
19 intention was to get a -- an associate's degree, but they  
20 cancelled that program halfway through so --

21 Q. Did you switch your focus to -- to earn an associate's  
22 degree in some other area after they cancelled that program?

0:16:51 23 A. No.

24 Q. When did you complete the program regarding the  
25 automotive training course?

C03499

1 A. I wouldn't be able to give you the exact year, it was  
2 -- it was at Western Illinois Correction Center. And I think I  
3 was there from -- sorry.

4 Q. It's okay.

5 A. It was probably either 2001 or 2002.

6 MR. BOWMAN: Alan, you don't need to -- to guess or  
7 make up an answer. If you don't recall, you can just --

8 WITNESS: I -- okay.

9 MR. BOWMAN: -- tell her you don't remember.

10 A. I -- yeah, I really don't remember. I'd have to piece  
11 that together.

12 Q. But your approximate date would be 2001, 2002?

13 A. That could be an approximation, yes.

14 Q. When did you first meet Jennifer Lockmiller?

15 A. I met her while I was attending school at Illinois  
16 Wesleyan.

17 Q. And when was that?

18 A. I believe it was May in sophomore year.

19 Q. Do you recall what year you were a sophomore at  
20 Illinois Wesleyan?

21 A. The '91-'92 school year, I believe.

22 Q. How did you meet Jennifer?

23 A. I met her at The Dugout, which is in the student  
24 center.

25 Q. Is that a place where students can hang out, the

C03500

VOLUME XV

ALAN BEAMAN

VS.

TIMOTHY FREESMEYER, DAVE WARNER,  
FRANK ZAY AS, TOWN OF NORMAL, IL,

CASE NO. 14 L 51

APPELLATE CASE NO. 4-16-0527

APPEAL TO THE  
APPELLATE COURT OF ILLINOIS  
FOURTH JUDICIAL DISTRICT

FROM THE CIRCUIT COURT  
OF THE  
ELEVENTH JUDICIAL CIRCUIT  
McLEAN COUNTY, ILLINOIS

Don R. Everhart Jr  
Don R. Everhart, Jr., Circuit Clerk

Sophie Bates  
Deputy

064

~~Vol XV~~

~~VOL VI~~

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COURT DISTRICT~~

APPENDIX 000361

1 Dugout?

2 A. Hang out, study.

3 Q. And how was it that you met her in the Dugout?

4 A. We were sitting at different tables and I suppose we  
5 were flirting.

6 Q. How did your relationship move on from there after you  
7 were flirting in The Dugout?

8 A. I would see her in the Dugout from time to time after  
9 the first time I saw her there. And I eventually sat with her at  
10 the same table and talked to her and we became friends.

11 Q. And then eventually the two of you started dating,  
12 correct?

13 A. Yes.

14 Q. When did your relationship turn from a friendship more  
15 into a dating relationship?

16 A. It was the summer of -- summer of '92.

17 Q. Do you recall that being July 4th of 1992?

18 A. Thereabouts.

19 Q. How long did you date Jennifer?

20 A. Approximately a year.

21 Q. How would you describe your relationship with her when  
22 you first started dating?

23 A. It was fun and romantic.

24 Q. Did it become a sexual relationship?

25 A. Yes.

C03501

1 Q. When did you and Jennifer become engaged to be  
2 married?

3 A. It was maybe October.

4 Q. October of what year?

5 A. Of '92. I'm not 100 percent sure on that.

6 Q. And I appreciate if you are not 100 percent sure, if  
7 you could just let me know, as you did. I appreciate that. How  
8 long were you engaged to Jennifer?

9 A. Well, we were -- we were engaged most of the  
10 relationship. I think, we were just dating later on. It's -- I  
11 guess it's sort of unclear to me, but the engagement kind of went  
12 with the relationship --

13 Q. So it --

14 A. -- after that --

15 Q. Basically, when the relationship ended, is that when  
16 you're saying that -- for, I mean, all intents and purposes, the  
17 engagement ended as well?

18 A. Yes.

19 Q. And prior to that point in time, was there ever a  
20 conversation you had with her where it was stated that we're no  
21 longer -- I'm not going to marry you or we're not longer engaged?

0:21:18 22 A. No, I don't think so.

23 Q. Did the two of you actually exchange rings --

24 A. We did.

25 Q. -- at the time you became engaged?

C03502

1 A. Sorry.

2 Q. That's okay.

3 A. We -- we did exchange rings.

4 Q. Okay. Could you describe your rings for me?

5 A. I originally made her -- I -- I braided some of my  
6 hair into a ring, it was not very easy to do, and it was my first  
7 time trying something like that, and it didn't really hold  
8 together, and then after that started to kind of fall apart, I  
9 went and I got her -- it was -- it was a pretty ring, but it was  
10 not a real diamond, from a local head shop that had lots of neat  
11 rings. And she bought me a -- it was a ring that has three pieces  
12 that are on a hinge. And the three pieces, one of them has a hand  
13 as the boss on it, then the middle one has a heart, and then the  
14 other side has a hand as well, and they fold together to make two  
15 hands over a heart.

16 Q. What happened to the ring that Jennifer gave you?

17 A. I threw it in the Rock River.

18 Q. And where is the Rock River located?

19 A. It's in Rockford.

20 Q. When did you do that?

21 A. Shortly after I got back to Rockford maybe August 5th,  
22 somewhere around there.

23 Q. Of what year?

24 A. Of '93. '93.

25 Q. And just so it's clear for the record, you're on a --

C03503

1 a video today, but back in 1993, 1992, you had a significant head  
2 of hair at that point in time, is that fair to say?

3 A. I did.

4 Q. Okay. And you -- your hair was longer?

5 A. Yes.

6 Q. When I say longer, obviously, you don't have hair  
7 today, correct?

8 A. Correct.

9 Q. When I -- you had long hair, is that -- back --

10 A. I --

11 Q. Back in --

12 A. I did have long hair, yes.

13 Q. Okay. Okay. Did your relationship with Jennifer  
14 change at all after your engagement in approximately October of  
15 1992?

16 A. It did.

17 Q. And how did it change?

18 A. It became conflicted.

19 Q. Can you describe further what you mean by, it became  
20 conflicted?

21 A. We had periods where we did not get along well.

22 Q. Was there anything in particular that would, kind of,  
23 spark the animosity between the two of you?

24 MR. BOWMAN: I'm going to object to, animosity. Go  
25 ahead and answer the question as best you can, if -- if you -- if

C03504

1 you can answer it --

2 MS. EKL: I can rephrase it.

3 MR. BOWMAN: -- in that form.

4 Q. Would you say that there was animosity during those

5 periods of time when you didn't really get along?

6 A. Can you define animosity --

7 Q. Sure.

8 A. -- for me --

9 Q. Sure.

10 A. -- please?

11 Q. Would the two of you be fighting during those time

12 periods?

13 A. Occasionally.

14 Q. Okay.

15 A. Yes.

16 Q. And would you perhaps be angry at her or her angry at

17 you during those time periods?

18 A. She was usually angry at me.

19 Q. Okay. And was there something that usually caused

20 those periods of time where either one of you were angry?

21 A. There were friends of mine that she didn't like me to  
22 be around. There were jealousies that she expressed that would  
23 cause those arguments.

24 Q. Who were some of the friends that she didn't like you

25 to be around?

C03505

1 A. She didn't like me in -- mostly to be around Meredith  
2 Hanes and -- because her boyfriend was Don Jones, she didn't like  
3 me to be around Don Jones. In addition, there were a number of  
4 female friends she was insecure about.

5 Q. Did she tell you why it was that she didn't want you  
6 to be around Don Jones?

7 A. Because she didn't want me to be around Meredith.

8 Q. Oh, so Don Jones was a friend of yours that she didn't  
9 want you to be around as well, is that -- am I accurately  
10 summarizing that?

11 A. Yes.

12 Q. Okay. And that was because Meredith would be around  
13 Don?

0:25:23 14 A. Yes.

15 Q. In December of 1992, there was an incident where the  
16 police were called in the middle of the night because you drank  
17 some fingernail polish remover, correct?

18 A. Yes.

19 Q. Could you tell from me -- tell me about that incident?  
20 What led up to that?

21 A. It was -- there was an argument again about Meredith  
22 and I was attempting to escape the -- the argument. And I did a  
23 stupid thing, I drank the nail polish remover, got sick, and  
24 that's that.

25 Q. So this argument, did this take place at -- where --

C03506

1 where did this take place?

2 A. At her apartment.

3 Q. Okay. And you said it was over Meredith?

4 A. Yes.

5 Q. Anything in particular about Meredith that caused this  
6 argument?

7 A. I really don't remember.

8 Q. Why did you drink the fingernail polish remover?

9 A. I wanted to escape the argument.

10 Q. What did you think would happen when you drank the  
11 fingernail polish remover?

12 A. I thought I would vomit.

13 Q. Did you think that it might kill you?

14 A. Not if I didn't drink a lot of it.

15 Q. How much of it did you drink?

16 A. A healthy sip.

17 Q. What happened to you after you drank the fingernail  
18 polish remover, physically?

19 A. I vomited --

20 Q. Anything --

21 A. -- several times.

22 Q. Anything other than that?

23 A. I had a sore throat. What did Jennifer do when you  
24 drank the fingernail polish remover?

25 A. I believe she took me to the hospital. She got over

C03507

1 the argument very quickly and took me to the hospital.

2 Q. This took place at approximately 2:30 in the morning,

3 correct?

4 A. I really don't remember what time it took place.

5 Q. Do you remember it being late in the evening or early

6 in the --

7 A. I'm sure it was --

8 Q. -- morning hours?

9 A. -- late, yes.

10 Q. Okay. And did Jennifer call the paramedics during --

11 when this took place?

12 A. I don't remember. She may have.

13 Q. What hospital did Jennifer take you to?

0:27:57

14 A. BroMenn.

15 Q. Were you allowed to leave BroMenn after you -- well

16 were -- let me back up. Were you admitted to BroMenn?

17 A. Briefly. I left the same night.

18 Q. And did you see any doctors while you were at BroMenn?

19 A. Yes.

20 Q. In addition to -- well, first off, did they physically

21 examine you to make sure that you were okay physically?

22 A. Yeah.

23 Q. And did you have to --

24 A. Yes.

C03508

25 Q. Did you have to speak to any therapists or any other

1 social workers as a result of this incident?

2 A. I think I did. I don't remember.

3 Q. Do you remember anything about any conversation with  
4 any social workers or therapists at BroMenn?

5 A. Not really.

6 Q. Where was Jennifer when you were in the hospital?

7 A. I think she was with me most of the time. She might  
8 have been waiting outside of a room for part of the time. I  
9 really don't remember.

10 Q. After the incident, did you and Jennifer talk about  
11 what had taken place in terms of you drinking the nail polish  
12 remover?

13 A. Yes.

14 Q. And what do you re -- when did that conversation take  
15 place?

16 A. Immediately after.

17 Q. What do you recall either you saying to her or her  
18 saying to you?

19 A. She was upset with me for having done that. She was  
20 concerned about me, and wanted to assure herself that I would not  
21 do that again. And that was the gist of the conversation.

22 Q. What did -- what, if anything, did you say in response  
23 to her?

24 A. I -- I really -- I really can't say. I could guess.

25 I -- I know that I felt bad for doing it, and that I knew it was a

C03509

1 stupid thing to do. That was probably the gist of my end of the  
2 conversation.

3 Q. How would you describe your relationship after that  
4 incident?

0:30:10

5 A. I don't think it changed.

6 Q. Did there continue to be times when she would get  
7 jealous about your relationship with Meredith or other people?

8 A. Yes.

9 Q. Were there times when you would get jealous about her  
10 relationship with -- with other -- with other guys?

11 A. Only when there would be some kind of evidence to  
12 that. She generally hung out with other male friends and I wasn't  
13 concerned about it.

14 Q. Were you aware of some gentlemen friends that she had  
15 on a regular basis throughout the course of your relationship?

16 A. Yes.

17 Q. What are the names of some of those people?

18 A. John Murray, Michael Swaine, Stacy Gates. I mean, I  
19 can't really begin to give you all of them, but Mike Boeing, I  
20 think. I --

21 Q. And some of those people were friends of yours as  
22 well, correct?

0:31:24

23 A. Yes.

24 Q. For instance, you were friends with Michael Swaine,  
25 correct?

C03510

1 A. Yes.

2 Q. And you were friends with John Murray?

3 A. Yes.

4 Q. Were you friends with Stacy Gates?

5 A. No.

6 Q. What about Michael Boeing?

7 A. I knew him in passing.

8 Q. In June of 1993, was there another incident between a

9 you and Jennifer where the police were called?

10 A. I can't -- I -- I really don't remember dates as far

11 as that's concerned.

12 Q. Do you remember an incident where the police were

13 called because Jennifer had allegedly attempted suicide?

14 A. Yes.

15 Q. What do you remember about that particular incident?

16 A. She had called me and told me that she had taken a

17 pills.

18 Q. Did she tell you how many pills she took?

19 A. No.

20 Q. Had you ever known her prior to that point in time to

21 take an excessive amount of pills?

22 A. Yes.

23 Q. How many other times had she done that?

24 A. She abused her prescription drugs.

25 Q. And what do you mean when you say that, she abused

003517

1 them?

2 A. Took more than was prescribed.

3 Q. Did she ever take, prior to that time, an amount of so  
4 many pills that it required her to be hospitalized or receive some  
5 kind of medical treatment, to your knowledge?

0:32:58

6 A. Not in my experience with her.

7 Q. What did she say, in addition to the fact that she had  
8 taken pills when she talked to you on -- on -- in June of 1993?

9 A. I'm sorry. Can you --

10 Q. Sure. What did -- you said that she had called you on  
11 the telephone, correct?

12 A. Yes.

13 Q. What else do you remember about that conversation,  
14 other than her telling you that she had taken some pills?

15 A. That -- I can't quote her directly, but something to  
16 the effect of that, she was going to end it all.

17 Q. Did you know what she was referring to at that point  
18 in time?

19 A. I believed she was referring to her life.

20 Q. And did you have reason -- or have any basis for  
21 knowing why she would want to end her life?

22 A. She was -- in a tone of voice, seemed to be feeling  
23 sorry for herself, and she said she had taken pills. That was  
24 what I thought she was doing.

25 Q. Do you remember anything more about that conversation?

C03512

1 A. No.

2 Q. What did you do in response to that conversation?

3 A. I called 911.

4 Q. And after you called 911, what was the next thing that  
5 you remember doing?

6 A. They told me to meet them there. So I went there.

7 Q. Where is there?

8 A. Her apartment.

9 Q. Where was she living at that time?

10 A. On [REDACTED]

11 Q. Is that the same address that she was living at in the  
12 summer of 1993 when she was killed?

13 A. Yes.

14 Q. Did you go to that location?

15 A. When --

16 Q. I'm sorry.

17 A. -- they asked me --

18 Q. I'm sorry.

19 A. -- to meet them there?

20 Q. Right. Yes.

21 A. Yes.

22 Q. Okay. And what happened once you got there?

23 A. The paramedics were there. There was an ambulance

24 there, when I got there, I think. They may have arrived shortly

25 after me, I can't remember. And they went in and talked to her

C03513

1 and they were satisfied apparently that she was fine. They left

2 and -- and then I -- I went in to talk to her.

3 Q. So you weren't present for the conversation between  
4 the paramedics and Jennifer then, is that fair to say?

5 A. No, I was not.

6 Q. Okay. Did the police also arrive during that  
7 incident?

8 A. I don't remember. I would imagine.

9 Q. What happened once you went into her apartment?

10 MR. BOWMAN: When he went into the apartment?

11 MS. EKL: Correct.

12 MR. BOWMAN: Okay.

13 A. We talked about it. She said she wasn't killing  
14 herself, and that I was overreacting. I left.

15 Q. Did she tell you why it was she had called you up and  
16 told you that she had taken some pills?

17 A. I don't remember if she specified why she did that,  
18 no.

19 Q. Did you get into an argument on that occasion?

20 A. I don't remember arguing with her about that.

21 Q. Was anyone else in that apartment when the two of you  
22 were talking?

0:36:21 23 A. No.

24 Q. Michael Swaine was not only your friend, he was also  
25 your roommate in 1993, correct?

C03514

1 A. Yes.

2 Q. How did the two of you meet?

3 A. He was my little brother in the theater program.

4 Q. How long were the two of you roommates?

5 A. Just for that summer.

6 Q. When did you first meet him?

7 A. My sophomore year, his freshman year.

8 Q. Jennifer was also a year younger than you, correct, in

9 school?

10 A. No.

11 Q. Okay. So you were in the same year of school as her?

12 A. She had had a disjointed college career. She had come  
13 and gone, and transferred. She's older than me, but she may have  
14 been in a similar grade level.

15 Q. What did it take -- how was it that Michael Swaine  
16 became your little brother in the theater program?

17 A. When -- when they know who -- when the school knows  
18 who the new theater students are going to be, they ask for  
19 volunteers who would like to be a big brother or a big sister.  
20 And they assign each person to a -- to a freshman, to help them  
21 get accustomed to the new place, make sure that they've got  
22 someone to talk to about adjusting.

23 Q. Would that -- did that take place at the beginning  
24 then, of that previous -- of the school year before you lived with  
25 him in the summer or -- let me just ask another way. When did

003515

1 that take -- when did you become his -- his big brother and he,  
2 your little brother?

3 A. At the beginning of my sophomore year.

4 Q. So would that have been in the fall of 1992?

5 A. Fall of '91, I think.

6 Q. Okay. And during that time period, when you helped  
7 him get adjusted, what kind of things did you do to help him?

8 A. Mostly I just hung out with him from time to time. He  
9 -- I don't know. We just became friends. What do friends do.

10 Q. Well, when you hung out, so did you -- would you go  
11 eat together?

12 A. Sure.

13 Q. Would you party together?

14 A. Yeah.

15 Q. Were there times when you were dating Jennifer when he  
16 would be around with the two of you?

17 A. Some of the time.

18 Q. Times when you --

19 A. Especially that summer.

20 Q. Were there times when the two of you would hang out  
21 with other guys?

22 A. Yeah.

23 Q. And then you also worked together at the theater over  
24 the summer, correct?

25 A. Yes.

C03516

1 Q. How would you describe your relationship with him  
2 leading up to that summer of 1993?

3 A. I would say it was a little better than  
4 acquaintanceship kind of friendship, but not -- he was not my best  
5 friend. We were friends.

6 Q. Who was your best friend back then?

7 A. I spent most of the time my freshman and sophomore  
8 year with Don Jones. And then -- I don't know, when you say back  
9 then, do you -- do you want --

10 Q. I'm sorry.

11 A. -- a chronology or --

12 Q. Well, let's -- let's say 1991 through 1993, who were  
13 the people that -- who were the -- the guy -- the male people in  
14 your life, or female, either one, that you would --

15 A. That I was closest to?

16 Q. -- that you were closest to?

17 A. Right.

18 Q. Yeah, that's right. Thank you.

0:40:33

19 A. It would have been Don, Chris Carbone, and Jamie  
20 Thorman.

21 Q. The fact that you were so close to Don Jones, that  
22 caused friction between you and Jennifer when you and Jennifer  
23 were dating?

24 A. Yes, it did.

25 Q. Did -- did it affect your relationship with Don Jones,

C03517

1 the fact that Jennifer didn't want you to be hanging out with him?

2 A. Yes, it did.

3 Q. The summer of 1993, you learned that Jennifer had been  
4 unfaithful to you with Michael Swaine, correct?

5 A. Yeah, yes.

6 Q. And when was the first time that you were told that  
7 something was going on between the two of them, other than just a  
8 friendship?

9 A. I think Michael -- Michael himself told me sometime, I  
10 guess, end of June, early July. I don't remember exactly when,  
11 sometime during that summer.

12 Q. And do you remember the circumstances under which he  
13 told you about him and Jennifer?

14 A. I just -- I know that there had been a lot of cryptic  
15 conversation between them, and I don't know whether I asked him or  
16 if he just came out with it or -- I really don't remember.

17 Q. What were some of the circumstances under which you  
18 observed this cryptic conversation?

19 A. When we were hanging out in groups.

20 Q. What did you observe?

21 A. Well, I had thought notes were being passed, and that  
22 may not have been every time, but there were some notes that were  
23 passed.

24 Q. How was it that you came to know that there were notes  
25 that were passed?

C03518

0:42:36

1 A. I found them.

2 Q. And were those the notes that you later found in

3 Michael Swaine's bedroom?

4 A. Yes.

5 Q. Were there any other notes, other than those, that

6 you're referring to?

7 A. I really don't know.

8 Q. Other than believing that notes were being passed, was

9 there anything else about your observations of the two of them

10 before having the conversation with Michael Swaine that led you to

11 believe there might be something more than a friendship going on?

12 A. There seemed to be some flirtatious interaction.

13 Q. During that time period, how would you describe your

14 own relationship with Jennifer?

15 A. Strained.

16 Q. And in what way?

17 A. I don't think we were communicating. I think that we

18 -- clearly things that were -- were being hidden and that damaged

19 the communication.

20 Q. And those things, was that in relation to what you

21 believed was going on with Michael Swaine?

22 A. As far as I know.

23 Q. At that point in time though, you were still engaged

24 to her, correct?

25 A. Yes.

C03519

1 Q. And you had still in your mind, intended to spend the  
2 rest of your life with her, correct?

3 A. Yes.

4 Q. You were still in love with her?

5 A. Yes.

6 Q. And how -- what do you remember about the conversation  
7 with Michael Swaine where he told you that -- that -- he confirmed  
8 your suspicions?

9 A. He admitted that the two of them had made out on the  
10 couch together.

11 Q. Where were you and Michael Swaine when he told you  
12 this?

13 A. I don't remember.

14 Q. Do you remember if anyone else was present when he was  
15 telling you this?

16 A. I don't remember.

17 Q. Did he give you any more details in terms of aware  
18 that couch was located or what -- when this --

19 A. It was in her apartment.

20 Q. When did this allegedly take place? Or when did he  
21 tell you that it took place?

22 A. He told me that it took place June 11th, I think.

23 Q. What, if anything, did you say in response to him when  
24 he told you that he had kissed your girlfriend?

25 A. I don't remember what I said. I -- I don't remember.

C03520

0:45:13

1 Q. Do you remember anything further he told you other  
2 than the fact that they had kissed on the couch?

3 A. No.

4 Q. Did he tell you anything about whether they intended  
5 to continue in any kind of a relationship beyond a friendship?

6 A. I don't know.

7 Q. Well, would that be -- was that concerning to you, if  
8 -- if they had intended to continue in a relationship beyond just  
9 a friendship?

10 A. At that time, I -- I was, I think, concerned with  
11 wanting to know for certain what happened. And I don't think I  
12 was thinking ahead, necessarily.

13 Q. Did you feel that Michael Swaine was being honest with  
14 you about everything that had taken place between him and  
15 Jennifer?

16 A. No.

17 Q. How did that make you feel at that point in time?

18 A. I guess I -- well, I was hurt by what I knew for sure  
19 did happen. And I was angry that I thought I was still being lied  
20 to.

21 Q. Did you tell people that you were angry about the fact  
22 that your fiancé, Jennifer, was kissing or -- or perhaps doing  
23 something more with your roommate Michael Swaine?

24 A. Which people?

25 Q. Any -- anyone? Did you tell anyone?

C03521

1 A. Yes.

2 Q. And who did you talk to about it?

3 A. I talked to Michael about it. I talked to Jennifer  
4 about it. I don't know whether I talked to anybody else about it  
5 or not.

6 Q. Did you have anyone that you would confide in between  
7 19 2 and -- 1992 and 1993 about any problems or concerns that you  
8 may have been having at that time, about your relationship with  
9 Jennifer?

10 A. Yes.

11 Q. And who would you -- who did you confide in, back  
12 during those time periods?

13 A. I confided in Chris Carbone and Jamie Thorman. I also  
14 confided in a counselor through Wesleyan.

15 Q. What was the name of that counselor?

16 A. I don't remember his name.

17 Q. Was that Ronald Mayer? Does that sound familiar?

18 A. That sounds familiar, but I can't swear to it.

19 MR. BOWMAN: Well, when you have -- when you get to a  
20 stopping point, could we take a quick break?

21 MS. EKL: Sure. Sure. Can I just ask one --

22 MR. BOWMAN: Sure.

23 MS. EKL: -- a few more things.

24 MR. BOWMAN: Sure.

25 MS. EKL: -- about this and then we'll --

C03522

1 MR. BOWMAN: I -- I don't mean -- I don't want to --

2 MS. EKL: -- before I move on.

3 MR. BOWMAN: -- interrupt. Go ahead.

4 Q. You said you also spoke to Jennifer about this

5 incident, correct?

6 A. Yes.

7 Q. About what Michael had told you about the two of them

8 kissing?

9 A. Yes.

10 Q. When did that take place?

11 A. I -- I really don't know. Shortly after he told me.

12 Q. Within the same day or within days?

13 A. Maybe within the same day, yeah.

14 Q. What you remember about that?

0:48:42 15 A. She denied it.

16 Q. Where was it that you talked to her and had a

17 conversation in which she denied it?

18 A. I really don't remember.

19 Q. Did you confront her about it?

20 A. Yes.

21 Q. And at the time you confronted her, were you angry

22 about it?

23 A. Yes.

24 Q. And what do you remember telling her that you knew

25 about her relationship with Swaine?

C03523

1 A. I told her what he had told me.

2 Q. And what was that?

3 A. That he had told me that they had made out on the  
4 couch.

5 Q. Do you remember her saying anything other than just  
6 denying it?

7 A. I think she said something to the effect that, he  
8 wouldn't say that.

9 Q. Did you believe her when she denied it?

10 A. No.

11 Q. Did you tell her you didn't believe her?

12 A. I don't remember.

13 Q. Do you remember anything else about that conversation  
14 with Jennifer during which you confronted her about Michael  
15 Swaine? That first conversation?

16 A. I'm sorry?

17 Q. Do you remember anything more about that -- that  
18 conversation with Jennifer?

19 A. Not really.

20 MS. EKL: Want to take a break?

21 MR. BOWMAN: Yes.

22 RECORDER: Off the record.

23 (Off the record)

24 RECORDER: We are back on the record. It is 10:45.

25 Q. Mr. Beaman, earlier, before we went off the record,

003524

1 you indicated that one of the people that you would confide in, in  
2 the summer of 1993 was your counselor, correct?

3 A. Yes.

4 Q. And you don't recall his name or her name?

5 A. No, not off the top of my head.

6 Q. When -- when did you first start seeing that counselor  
7 at school?

8 A. I really only saw him once.

9 Q. When was that?

10 A. It was during the summer.

11 Q. Was that summer of 1993?

12 A. I believe so.

13 Q. What was the reason for you seeing the counselor?

14 A. I was feeling stressed from the relationship with  
15 Jennifer.

16 Q. And just to put it in context, since you can't  
17 remember the exact date, what was going on generally in terms of  
18 your relationship with Jennifer at the point in time when you went  
19 to the counselor?

20 A. That may have been after Michael Swaine and Jennifer  
21 had had their romance.

22 Q. Well, are you talking about when they kissed on the  
23 couch or something further?

24 A. Yes.

25 Q. I'm sorry. Which one?

C03525

1 A. I'm sorry. When they -- when they kissed on the  
2 couch.

3 Q. Okay. Okay. At that point in time, is it fair to say  
4 you were having feelings of anger that you wanted to deal with,  
5 correct?

6 A. Yes.

7 Q. And you were seeking out in help in doing that?

0:51:31

8 A. Yes.

9 Q. What do you recall telling the counselor about your  
10 relationship with Jennifer at that point?

11 A. I really don't remember exactly what I told him.

12 Q. Did the counselor give you some tools to work with to  
13 help you cope?

14 A. His advice was to leave town and go somewhere where  
15 nobody expected anything of me, so that I could just relax and  
16 figure out who I was and -- and what -- what I needed to do.

17 Q. You eventually -- and we'll get to it in a minute, but  
18 you did eventually leave town that summer, correct?

19 A. I did.

20 Q. And when in relation to -- how much sooner had you  
21 talked -- I -- sorry. When in relation to when you left town, did  
22 you talk to the counselor?

23 A. I really don't know.

24 Q. Do you think it was within weeks or a month -- or a  
25 month or longer than that?

C03526

1 A. It was -- I believe --

2 Q. Days?

3 A. I believe, it was within the same summer. That's  
4 about as accurate as I could get.

5 Q. Is it possible that you saw the counselor on -- on  
6 more than one occasion?

7 A. I don't think so, but it's possible.

8 Q. At some point in time, you found out that Jennifer and  
9 Michael were involved in a rela -- physical relationship that was  
10 more than just kissing, correct? Or at least, you believed that  
11 they were involved in a physical relationship?

12 A. I believed that they were.

13 Q. Okay. At what point in time, did -- did you formulate  
14 that belief?

15 A. Well, it went along with Michael telling me that --  
16 that they had kissed and he was not -- I did not believe he was  
17 being truthful with me.

18 Q. Did you take steps to try to determine if he was  
19 telling you the truth?

20 A. I did.

21 Q. What did you do?

22 A. I confronted Jennifer with it. And later on, I -- I  
23 had -- well, I searched Michael's room to see if he had letters or  
24 anything that would indicate that they were continuing to be  
25 involved or that it had escalated past what he was telling me.

C03527

1 MS. EKL: Let's stop for one second.

2 (Off the record)

3 MS. EKL: Just to kind of keep it in chronology, did  
4 you -- there was an incident at some point, over that summer,  
5 where you believed that Michael Swaine was inside Jennifer's  
6 apartment, correct?

7 A. Yes.

8 Q. Did you find -- or search for the letters or find the  
9 letters prior to that incident or after that incident?

10 A. After.

11 Q. Okay. So let's back up a little bit then. Tell me  
12 about what the -- the events that led to you going to her  
13 apartment under the belief that Michael Swaine was -- was there?

14 A. Michael was talking on the phone, and I felt that it  
15 was pretty clear that he was -- something was phony about it. He  
16 was trying to make sure I overheard it, and it seemed  
17 disingenuous. And then he asked me if he could borrow my car and  
18 he told me that he was going to go to a party and I said, sure you  
19 can borrow my car. And shortly after he left, I decided that I  
20 should, at least, go and see whether he's being truthful, and so I  
21 rode my bicycle -- or I don't know if it was my bicycle or not. I  
22 rode a bicycle to her apartment, and I found my car sitting in a  
23 parking lot next to -- next to her apartment, and so I -- I went  
24 and knocked on the door.

25 Q. Let me just stop you there. The conversation that you

C03528

1 overheard on -- when Michael was talking on the telephone, where  
2 were you when this took place?

3 A. At our apartment. The apartment I shared with Michael  
4 Swaine and Brendan Komala.

5 Q. So we're still sometime in -- in the summer of 1993?

6 A. Yes.

7 Q. Do you know what month or a more approximate date of  
8 when that incident took place?

0:56:41 9 A. I don't.

10 Q. Was anyone else in the apartment when you overheard  
11 Michael making these comments to someone over the phone?

12 A. I don't know.

13 Q. And prior to hearing him make, what you believed, were  
14 statements that were kind of -- well, let me -- I don't want to --  
15 let me back up and strike that. Prior to overhearing that  
16 conversation, had you done any other activities to try to monitor  
17 or try to figure out whether or not Michael and Jennifer were  
18 involved in some kind of a relationship?

19 A. I don't think so, but I really don't know.

20 Q. Had you followed her at all?

21 A. No.

22 Q. Had you followed him at all?

0:57:18 23 A. No.

24 Q. After he had asked you to borrow your car, you let him

25 borrow the car, correct?

C03529

1 A. Yes.

2 Q. And that was because you wanted to see where he was  
3 going to go?

4 A. No.

5 Q. You believed that he was going to go to Jennifer's,  
6 correct?

7 A. I thought it was possible.

8 Q. You said that you used a bicycle to go over to her  
9 house, correct?

10 A. Yes.

11 Q. You actually followed him in the car over to her  
12 house, correct?

13 A. I left right after him, yes.

14 Q. Okay.

15 A. It's hard to follow a car on a bicycle.

16 Q. Okay. So you went -- so then you went to her house  
17 because that's where you then assumed that he had gone, correct?

18 A. Yes.

19 Q. Could you describe where her house -- where her  
20 apartment was located, just kind of generally? You talked about a  
21 parking lot, but just describe it for us so we can visualize her  
22 apartment building and the parking lot. In terms of, is it off of  
23 a major road or where are parking lots in comparison to the  
24 building? If you could just kind of lay that out for us.

25 A. Her apartment was on [REDACTED]. And the parking lot

C03530

1 was on the other side of the building from [REDACTED].

2 Q. So if you were on [REDACTED], would you make a right  
3 or a left into her apartment complex?

4 A. Well, it depends on which direction you're going. I  
5 think you had to --

6 Q. Oh.

7 A. I think you had to go right, because I don't think the  
8 median -- I don't think the median had an opening there. I really  
9 don't remember for sure, but I know there was something tricky  
10 about getting in and out of that parking lot.

11 Q. Her apartment, was that in a -- it was obviously in a  
12 multi unit building, correct?

13 A. Yes.

14 Q. Was there a complex where there were multiple  
15 apartment buildings? Or was it just one building with a parking  
16 lot that made up where she lived?

17 A. There were several other apartment buildings all in  
18 the same area.

19 Q. Approximately, how many floors were stories was her  
20 apartment building?

21 A. Two.

22 Q. And do you know how -- how many apartments were within  
23 each floor?

24 A. I believe there were two on each floor.

C03531

25 Q. And so to get to the parking lot that you described,

1 could you get to that parking lot from [REDACTED] Street?

2 A. Yes.

3 Q. Okay. So you basically pull into a driveway and then  
4 drive -- would you go past the building to get to the parking lot?

5 A. Yes.

6 Q. Okay. And is that the location where you found your  
7 car or was there another parking lot that you found the car?

8 A. It was another parking lot.

9 Q. Okay. Where was that parking lot located in  
10 comparison to her building?

11 A. On the other side of the building adjacent to her  
12 building.

13 Q. Okay. So if you were going down [REDACTED] Street and  
14 assume that you're going in a direction so that her building was  
15 to your right, does that make sense?

16 A. Okay.

17 Q. Would you then be able to pull off the road directly  
18 right into the driveway?

19 A. Yes.

20 Q. Okay. And then would her building be on the left or  
21 right side of the driveway?

22 A. The left.

23 Q. Okay. Where is this in -- and taking us through that,  
24 where would the other building be where you found --

25 A. On the right.

C03532

1 Q. Okay. So she took a ride into the parking lot -- I'm  
2 sorry, a right into the driveway, the other building is then on  
3 the right hand side of that driveway?

4 A. Correct.

5 Q. Could you enter the lot for that building where you  
6 found your car from the same driveway you entered to get to  
7 Jennifer's lot?

8 A. You cannot.

9 Q. Okay. How do you get to that lot?

10 A. There is an entrance if -- this is complicated. If  
11 you are going in a direction that you can turn right into her  
12 parking lot, then the building just before that had a parking lot,  
13 which is just before it.

14 Q. Okay. So basically, if you're going down [REDACTED] Street  
15 there's a driveway that you would turn into to get into the  
16 parking lot where you found your car, correct?

17 A. Yes.

18 Q. If you didn't make a right into that driveway and kept  
19 going straight, you'd pass a building before you got to another  
20 driveway that you would turn into to get to her building?

21 A. Yes.

22 Q. Okay. Where -- if you were standing in her parking  
23 lot, could you see the parking lot where your car was located?

24 A. Through -- yes, there's a breeze way under the  
25 building.

C03599

1 Q. So were you able to see your car from standing in her  
2 parking lot or did you have to kind of ride around to look for it?

3 A. I saw my car as I was riding towards her apartment, I  
4 believe.

5 Q. Because you would have passed that first driveway  
6 where that parking lot was located before you even got to her  
7 apartment building, correct?

1:01:45 8 A. That's my best recollection.

9 Q. Okay. What did you do upon seeing your car?

10 A. I went to her door.

11 Q. And what -- what did you do when you got to her door?

12 A. I first knocked on the door and I shouted.

13 Q. How were you feeling at that point in time?

14 A. I was angry. I felt betrayed.

15 Q. Okay. And what were you shouting?

16 A. I don't know. I think -- I think I was demanding my  
17 keys.

18 Q. That was the keys to your car?

19 A. Yes.

20 Q. Were you saying anything else?

21 A. I don't remember.

22 Q. All right. Did anyone answer the door?

23 A. No.

24 Q. What did you do at that point?

25 A. I -- I banged on the door louder and I was told that I

C03534

1 couldn't come in.

2 Q. You heard someone's voice say that?

3 A. Yes.

4 Q. And whose voice did you hear?

5 A. It was Jennifer.

6 Q. Did you hear any other voices?

7 A. No.

8 Q. What did you do at that point?

9 A. I broke the door down.

10 Q. And how did you do that?

11 A. I kicked it.

12 Q. Did you have to kick it once or --

13 A. Several times.

14 Q. And what happened -- when you kicked the door, could

15 you describe what happened to the door and the door frame if

16 anything?

17 A. It knocked the -- where the -- the bolt goes into the

18 door jamb, it knocked that out and leaving the bolt still open and

19 the door swung open.

20 Q. So obviously prior to that point in time, you had been

21 to her house a number of times, correct?

22 A. Yes.

23 Q. And you had been in and out of that -- that same door,

24 correct?

25 A. Yes.

C03585

1 Q. How was it that that door -- what kind of locking

2 mechanism was on that door?

3 A. It had a deadbolt.

4 Q. Did she have more than one lock? So in addition to

5 the deadbolt, was there also a lock in the handle itself or was it

6 just the deadbolt?

7 A. I -- I don't remember. There may have been.

8 Q. Okay. After you kicked the door open, tell me about

9 what happened?

10 A. I went in looking for Michael Swaine and demanding my

11 keys.

12 Q. Did you see Jennifer when you came into the apartment?

13 A. I did.

14 Q. Where was she?

15 A. She was standing right on the other side of the door.

16 Q. Okay. What did she say when you -- after you kicked

17 in the door?

18 A. I really don't remember. She was upset.

19 Q. Was she screaming?

20 A. More like yelling at me.

21 Q. Okay. What -- what was she yelling?

22 A. I really don't remember. She was -- I don't know.

23 What are you doing. I -- I really don't remember.

24 Q. Okay. Was she crying?

25 A. No.

C03536

1 Q. All right. What did you do after you said that you  
2 wanted your keys?

3 A. I looked around trying to find Mike.

4 Q. Where'd you look?

5 A. I looked in all of the rooms.

6 Q. Can you describe for us the layout of her apartment?

7 So as you enter, just -- just walk us through it. As you walk  
8 into her apartment in that front door, if you could just describe  
9 the layout in terms of the different rooms and the doorways?

10 A. Well, as -- as you walk in the door, there is a short  
11 hallway. There's an entrance to the kitchen on the left and a  
12 closet on the right. And then there's a -- sort of a combined  
13 living room, dining room straight ahead, and then if you dogleg  
14 right, there's a -- a little entryway that leads to both the  
15 bathroom and the bedroom.

16 Q. It was just one bedroom then?

17 A. Yes.

18 Q. Okay. So when you entered that apartment, you started  
19 looking for Michael Swaine. Walk us through the places that you  
20 went within that apartment?

21 A. I just looked in the kitchen and the living room as I  
22 walked in and the bathroom door was probably open. I really don't  
23 remember. And -- and then I walked into the bedroom looking for  
24 him in there.

25 Q. Did you look within any kind of closets or doors or

C03537

1 any places like that within each of the rooms?

2 A. I think I did. It's my recollection I looked in the

3 closet and -- but I didn't find him.

4 Q. What, if anything, were you saying you were walking

5 through these rooms?

6 A. I really don't remember.

7 Q. Is it fair to say you weren't just calmly walking by

8 and looking in the rooms for Michael Swaine? You were upset at

9 that point in time, correct?

10 A. I was upset.

11 Q. And you were walking briskly through these rooms?

1:06:16 12 A. Yes.

13 Q. And what was Jennifer doing while you were going from

14 room to room?

15 A. Yelling at me. I really don't remember what she said.

16 Q. What else did you do other than look through the rooms

17 for Michael Swaine?

18 A. I believe that's all I did.

19 Q. How long do you think you were in that apartment?

20 A. Maybe five minutes.

21 Q. When you -- at what point in time, did you decide you

22 were going to kick the door in when you were standing outside of

23 the apartment?

24 A. I don't know. Like shortly after I started pounding

25 on the door.

C03538

1 Q. Were you -- did you have any concern that you were --  
2 someone would call the police on you?

3 A. Not really, no. I guess, I -- I was probably focused  
4 specifically on trying to catch them.

5 Q. Was there any place that you can think of that Michael  
6 Swaine could have, for lack of a better word, escaped to, if he  
7 was inside that apartment when you entered?

8 A. I thought that maybe he could have climbed out of a  
9 window and I looked outside the building to -- to see if I could  
10 see him hiding outside the building.

11 Q. When did you do that in relation to kicking the door?

12 A. I think it was after I didn't find him in the  
13 apartment.

14 Q. When you were in the apartment, did you ever, at any  
15 point in time, touch or any way physically make contact with  
16 Jennifer?

17 A. No.

18 Q. Okay. When you left the apartment then, what did you  
19 do to try to see if he had escaped out a window?

20 A. There's a -- there's a back step, I walked out on the  
21 back step and then I also walked out front to see if I could see  
22 him walking in the parking lot.

23 Q. Were you saying anything as you were going in these  
24 different locations outside the building?

25 A. I really don't remember.

C03539

1 Q. Do you remember yelling Swaine's name or anything of  
2 that sort?

1:08:27

3 A. Quite possibly.

4 Q. Is there anything else about that incident at  
5 Jennifer's apartment where you kicked in the door looking for  
6 Michael Swain that you can remember that you haven't already  
7 talked to us about?

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

9 Q. When you left her apartment building, what was the  
10 next thing that you did? After -- after you made these attempts  
11 to look for him outside the building, what was the next thing you  
12 did?

13 A. Well, whether -- I don't remember whether I went back  
14 in or not after I made those attempts, but if you're asking when I  
15 left --

16 Q. Well, let me -- let me back up then. Did -- did -- is  
17 there -- do you think that you went back into her apartment after  
18 you looked around the outside?

19 A. Again, I don't remember.

20 Q. Okay. Did you make any attempts when you were in the  
21 apartment to look for evidence of -- of Swaine being there?

22 A. No.

23 Q. Other than just his bod -- you know, his person?

24 A. I was looking for Swaine.

25 Q. Okay. Did you look, at that time, for any evidence of

C03540

1 whether or not they had been involved in any kind of sexual  
2 relationship?

3 A. No.

4 Q. So what's the next thing you remember doing after  
5 being outside looking for Swaine on the outside?

6 A. I went home. I went back to my apartment on the  
7 bicycle.

8 Q. Was anyone there when you got there?

9 A. Yes.

10 Q. And who was there?

11 A. Kris Perry.

12 Q. That's Kris Perry with a p?

13 A. Yes. Kris Perry.

14 Q. Okay. And just for the court reporter, does Kris  
15 spell his name for a K?

16 A. I believe so. It's Khristian, so I --

17 Q. Okay.

1:10:04 18 A. I believe he spells it with a K.

19 Q. Okay. Did you have a conversation with Kris Perry?

20 A. I did.

21 Q. And what, if anything, did you say to him or did he  
22 say to you?

23 A. I can't remember the specifics, but I told him what I

24 had just been doing and -- and why. And he offered to go get my

25 keys for me.

003541

1 Q. And you were still upset at the point in time when you  
2 were talking to Kris Perry, correct?

3 A. I was.

4 Q. And he was concerned about you going back yourself to  
5 get the keys, correct?

6 A. Yes.

7 MR. BOWMAN: Objection.

8 Q. And he expressed that to you?

9 MR. BOWMAN: Objection to the foundation for that last  
10 question and answer. Sorry to be late.

11 MS. EKL: It's okay.

12 Q. Let me ask a different question. Did he tell you that  
13 he was concerned about you going back yourself into the apartment?

14 A. He did not say that, no.

15 Q. But there -- was there something about what -- what he  
16 did say or how he acted that led you to believe that?

1:11:06 17 MR. BOWMAN: Objection, foundation.

18 A. I think he was, in general, concerned about the whole  
19 situation, that it was -- that it was an unpleasant situation, and  
20 he wanted to help.

21 Q. And what was it about what he was saying or doing that  
22 led you to believe that he was concerned?

23 A. He was acting as a mediator.

24 Q. When he -- did he, in fact, then go back to Jennifer's  
25 apartment to try to locate your keys?

C03542

1 A. He did.

2 Q. Did you go with him or did you stay at your -- at the  
3 apartment?

4 A. I rode in the car with him.

5 Q. Whose car was it?

6 A. It was his car.

7 Q. Okay. What happened when you got back to her  
8 apartment complex?

9 A. Kris went in. Shortly after that, he came back out  
10 with my keys. And -- and then he took me to my car. Yeah, I  
11 think he took me to my car. And then if not, I may have just  
12 walked. It wasn't that far away, but I really don't remember.

13 Q. Okay.

14 A. And -- and then I started to drive home.

15 Q. What -- what, if anything, happened as you started to  
16 drive home?

17 A. I saw Michael Swaine walking from her apartment.

18 Q. And was that because, as you pulled out of her -- or  
19 pulled out of the driveway where your car had been kept, and  
20 turned onto the street, you were then facing her apartment  
21 building?

22 A. I couldn't turn left out of that parking lot, I had to  
23 turn right, and I went past her apartment building, and he was  
24 walking out of the parking lot.

25 Q. What, if anything, did you do upon seeing him walk out

C03543

1 of her building?

2 A. I stopped, and I opened the door, and I offered him a  
3 ride.

4 Q. And how did you do that?

5 A. I pulled up at the edge of the parking lot there still  
6 on the road, and reached over and pushed the door open, and I  
7 said, get in.

8 Q. Did you say it in that same tone that you just said  
9 now?

1:12:56 10 A. Pretty much, yeah.

11 Q. So where -- when did your mood -- or when did your --  
12 when did you change from being angry to this tone of kind of, ah  
13 get it?

14 A. I began calming down on the ride back to her apartment  
15 with Kris Perry.

16 Q. What was it, if anything, that caused you to be able  
17 to calm down?

18 A. I think being able to talk to somebody and, I think,  
19 when I received my keys, knowing that I was right, was very  
20 helpful as well.

21 Q. And as much as it might be helpful to know that you  
22 were right, were you also upset because you had just confirmed  
23 that he was with and had lied to you about being with her?

24 A. I was upset, but it was confirming something I already  
25 believed, and so if anything, there -- I felt a little more

003544

1 satisfied, I guess.

2 Q. When you said, get in, to Michael Swaine as he was  
3 leaving her building, what did he do?

4 A. He got in.

5 Q. Did he say anything to you before he got in the car?

1:14:07 6 A. I don't remember.

7 Q. And just to back up a little bit, do you remember  
8 anything more about your conversation? Any more specifics about  
9 your conversations with Kris Perry between your apartment and her  
10 apartment and Jennifer's apartment?

11 A. Not specifically. I know that he was -- like I said,  
12 he was acting as a mediator.

13 Q. Is it fair to say he was trying to calm you down?

14 A. Yes.

15 Q. Okay. Once Michael Swaine got in your car, tell me  
16 about what happened then.

17 A. We did have a conversation --

18 Q. And tell me what you said to him --

19 A. -- on the way back.

20 Q. -- or he said to you.

21 A. I -- I can't -- I can't give you specifics really. I  
22 really don't --

23 Q. What do you remember generally about the conversation?

24 A. He was apologetic. He was -- he was probably a little

25 afraid, but I -- yeah, I really -- I don't remember too much about 003545

1 it.

2 Q. What do remember him apologizing for?

3 A. For -- I don't -- well, let's correct that, because I  
4 don't -- I don't know necessarily that he apologized. I -- I  
5 would describe the tone of the conversation as -- that he was --  
6 that he seemed contrite.

7 Q. What, about what he was saying, led you to believe he  
8 was being contrite?

9 A. I believe he was expressing that he knew that  
10 borrowing my car and lying to me about it and then going to see  
11 Jennifer and being deceptive about that was -- was wrong.

12 Q. Did you feel that he was minimizing the situation when  
13 he was talking to you?

1:16:06 14 A. No.

15 Q. You said that you also were under the impression that  
16 he was a little bit afraid. What led you to believe that he was  
17 afraid?

18 A. I think he was -- he was hesitant to get in the car,  
19 but he did get in. And I -- I think his -- well, it may have jut  
20 been his emotional state being -- I don't know, feeling guilty or  
21 something, but it seemed like he was timid.

22 Q. Is it fair to say, at that point in time, you believed  
23 he was afraid of you?

24 A. It's possible. I don't --

25 Q. You had just kicked in Jennifer's door, correct?

C03546

1 A. Yes.

2 Q. Okay. Would you agree that that's a pretty violent  
3 act?

4 MR. BOWMAN: Objection, form.

5 A. It depends on the definition of -- of violence. It's  
6 violence against an inanimate object.

7 Q. But my question is, is in your definition of violent,  
8 of something being violent, would you agree with me that under  
9 your definition that it was a violent act to kick in a door?

10 A. It could --

11 MR. BOWMAN: Objection.

12 A. -- be shocking.

13 MR. BOWMAN: Objection, it's -- you -- you haven't  
14 established his definition of violence. So it's the same  
15 objection to his -- to the prior question.

16 Q. What do you think the term violent means?

17 A. I would describe violence as something sudden and  
18 explosive. I could use the word violent to -- to describe a car  
19 crash or I could use it describe a -- something falling off of a  
20 table. Something sudden, shocking, explosive that causes damage

21 --

22 Q. Okay.

23 A. -- to something.

24 Q. Would you agree that the act of kicking in Jennifer's  
25 door that was dead bolted shut, was a violent act under that

C03547

1 definition?

2 A. Under that definition, yes.

3 Q. Okay. And it certainly could have been perceived that  
4 way by Michael Swain and Jennifer Lockmiller?

5 A. Yes.

6 Q. Okay. After that incident with the door, based on the  
7 fact that you didn't end your engagement until after you left for  
8 Rockford, is it fair to say you -- the two of you, despite that,  
9 continued to be engaged?

1:18:38

10 MR. BOWMAN: Objection, to foundation a for that  
11 question.

12 A. We broke up well before I left for Rockford.

13 Q. Well, then let me back up a little bit. Describe your  
14 relationship with Jennifer after that door incident?

15 A. After that door incident, our relationship was  
16 diminished.

17 Q. In what way?

18 A. We were -- we were not -- we were not really a couple  
19 after that. There may have been -- I really -- I really don't  
20 remember time line specific, but I know that -- that after that  
21 incident things were less -- we were not close anymore.

22 Q. When's the next time that you remember talking to her  
23 after that incident?

24 A. I really don't remember. She was around a lot and we  
25 were still talking some, but we weren't close anymore.

C03548

1 Q. Did she, at any point in time, after that incident

2 express to you that she was fearful of you?

1:20:01

3 A. No.

4 Q. Did the two of you continue to have any kind of a

5 sexual relationship at any point in time after that incident with

6 the door?

7 A. Again, I'm not sure of the time line on that. It's

8 possible.

9 Q. When was the last time that you had any kind of sexual

10 relations with Jennifer Lockmiller?

11 A. It was mid July.

12 Q. Where did that take place?

13 A. At my apartment.

14 Q. What do you recall about the events leading up to -- I

15 don't, obviously, want to get into the specifics of you having sex

16 with her, but the specific -- but the events leading up to you

17 being at her apartment and -- and what led to -- to the sexual

18 relations?

19 A. I don't know. There were -- there were a couple of

20 times around that time where we -- we were hanging out together,

21 just the two of us, and I remember she was calling me her new best

22 friend during that period of time. That was an attempt on our

23 part to not be a couple but to still be friends. And I know that

24 -- I believe that once we considered ourselves broken up that we

25 weren't -- that we didn't have sex after that, so I think it was

C03549

1 -- it was right around that same time, but I -- I really -- the  
2 chronology, I couldn't tell you off the top of my head.

3 Q. When was the last time that you had sex with Jennifer  
4 in her apartment?

5 A. It was probably either the end of June or the  
6 beginning of July, somewhere around there.

7 Q. And when do you think that was in relation to the very  
8 last time you had sex with her when it was at your apartment, in  
9 terms of weeks, days, months?

10 A. Well, like I said, the -- the last time was sometime  
11 in mid July.

12 Q. The last time that you had sex with Jennifer in her  
13 apartment, do you remember where in her apartment that took place?

1:22:33 14 A. I don't.

15 Q. Do you remember what time of day it was?

16 A. Probably at night, but I really don't know.

17 Q. Were there times when you would hang out with Jennifer  
18 at her place, just hang -- whether it was having sex or not, when  
19 you would hang out with her during the day, as well as at night?

20 A. During the relationship?

21 Q. Yes.

22 A. Yes.

23 Q. You were working over the summer at Starlight Theater,  
24 correct?

25 A. Which summer?

C03550

1 Q. I'm sorry. The summer of 1993?

2 A. No.

3 Q. No. Okay. Where were you working in the summer of  
4 1993?

5 A. The summer of 1993, I was working at Wesleyan. At the  
6 Wesleyan Summer Theater.

7 Q. Okay. When did you start working there for the  
8 summer?

9 A. The beginning of the summer. I really couldn't give  
10 you a date.

11 Q. Did you have regular hours?

12 A. I did.

13 Q. And what were those hours?

14 A. 9 to 5 in the shop, and then during tech rehearsals  
15 and shows, we also crewed the shows.

16 Q. So what were your job -- job duties or  
17 responsibilities back in the summer of 1993?

18 A. For the first show, I was the technical director. And  
19 for the second show, I was a stage hand, a carpenter, and, I  
20 think, I did some electrics too, and I ran the fly loft during the  
21 show.

22 Q. What does that mean, to run the fly loft?

23 A. Pulling the ropes that move scenery up and down, or  
24 from the floor up into the -- the upper fly gallery.

25 Q. So that would be during the actual production?

C03551

1 A. During the actual product -- performance.

2 Q. Performance. Was Michael Swaine also working at the  
3 Wesleyan Theater with you over that summer?

4 A. Yes. Yes, he was.

5 Q. What were his duties, if you know?

6 A. He was alternating with me as a technical director.

7 He was the technical director for the second show. And I believe,  
8 that's the order they were in. Yeah, it was. And -- and then he  
9 also was a carpenter for the first show.

10 Q. And even though you worked on different shows, is it  
11 fair to say that you were working at the theater at the same time  
12 during those regular hours of 9 to 5?

13 A. We each worked for each other on the other shows.

14 Q. Okay.

15 A. So --

16 Q. So you worked together?

17 A. We worked together.

18 Q. So after this incident at Jennifer's house where you  
19 kicked in the door, is it fair to say, you then had to return to  
20 work and deal with Michael Swaine being there?

21 A. Yes.

22 Q. Okay. How was that relationship between you and  
23 Michael once you had to return to work and spend time with him?

24 A. I -- there were -- there were things that were  
25 unpleasant about it, but we worked together fine. We -- for the

C03552

1 most part, we managed to do our job and get things done. I was  
2 trying to forgive them. I was trying to get along, the three of  
3 us hung out together from time to time. I would have preferred it  
4 had been less often, but --

5 Q. And that -- during that same time period, that's when  
6 Michael Swaine and you were roommates too, correct?

1:26:13

7 A. Yes.

8 Q. Okay. Was it your belief, after the -- the door kick  
9 incident, that they weren't going to continue in any type of a  
10 relationship beyond friendship?

11 A. I don't know, because -- because she was coming around  
12 so much, she was coming to our apartment to hang out. It -- it  
13 seemed like that could go either way, I guess.

14 Q. Well, were they telling you that they were not going  
15 to continue in any type of a relationship beyond --

16 A. I don't know --

17 Q. -- friendship?

18 A. -- if they were telling me they were not, but they  
19 weren't telling me that they were.

20 Q. And is it fair to say that their failure to tell you  
21 about any growing relationship was upsetting to you?

22 A. I -- I don't know. As far as -- the whole situation  
23 was uncomfortable, and I didn't really want to see them together,  
24 but at the point that we weren't a couple anymore, I didn't  
25 consider it something that I should -- I mean, I -- I wanted to

C03553

1 know the truth, but whatever happens in the future, I wasn't

2 really thinking ahead, I don't think.

3 Q. Mr. Beaman, it was more than a little bit

4 uncomfortable. You actually looked for evidence that they were

5 together as a couple?

1:27:42

6 A. I wanted to know the truth, yes.

7 Q. Okay. And you took steps to do that, correct?

8 A. Yes.

9 Q. And you went into Swaine's bedroom, and that's when

10 you looked for those letters, correct?

11 A. Yes.

12 Q. And it was in that time period looking up -- looking

13 -- it was in that time period prior to you looking for the letters

14 that you observed what you believed was them passing the notes,

15 correct?

16 A. Time line again, I'm not 100 percent sure, but that

17 would have been -- that would have certainly been after the door

18 incident.

19 Q. And it was before you found the letters that you saw

20 them passing the letters, correct?

21 A. Yes.

22 Q. Okay. So while the three of you are hanging out and

23 she's trying to make you think that you're her new best friend,

24 you had this growing suspicion that her and Michael Swaine were

25 actually involved in more than a friendship?

C03554

1:28:30

1 A. Yes.

2 MR. BOWMAN: Objection, form.

3 Q. At some point after the door incident, you left both  
4 the theater and you left town, correct?

5 A. Yes.

6 Q. And that was -- do you recall that to be on Sunday,  
7 July 25th of 1993?

8 A. Sometime at the end of July.

9 Q. Where did you go when you left town?

10 A. I went to Cincinnati.

11 Q. Why was it that you left at that particular time?

12 A. I thought that things were uncomfortable enough that I  
13 needed to get out of town and just get away.

14 Q. This was not the time that you had initially planned  
15 to leave school and leave work, correct?

16 A. Correct.

17 Q. You actually left early?

18 A. Yes.

19 Q. And was there something in particular that caused you  
20 to need to leave at that particular time?

21 A. Yeah.

22 Q. What was that?

23 A. I -- that was when I found the letters and I  
24 confronted Michael with them, and I confronted Jennifer with them,  
25 and I felt that I should just get away and get over it all.

C03555

1 Q. Where in particular did you located these letters that  
2 were in Michael Swaine's possession?

3 A. I believe in one of his drawers.

4 Q. So did you search through different places in his  
5 bedroom looking for the letters?

6 A. Yes.

7 Q. Where all did you look before you finally found the  
8 letters?

9 A. I really don't remember where I looked first.

10 Q. How many letters did you find?

11 A. I think it might have been three.

12 Q. And when you found the letters, obviously, did you  
13 read them?

14 A. Yes.

15 Q. And how did that make you feel once you read them?

16 A. I felt that I confirmed my suspicions.

17 Q. And those suspicions were what?

18 A. That -- that more had happened between them on the  
19 night that Michael Swaine told me about the kissing then they had  
20 told me, and -- and that I was correct that notes had been passed.

21 Q. And so did you begin to realize that not only had they  
22 perhaps lied to you about the night that you kicked in the door,  
23 but they had also been lying to you every -- every day since then  
24 about their relationship?

25 A. Again, I don't remember whether they told me that they

C03556

1 weren't having a relationship, but it did confirm my suspicion  
2 that they were.

3 Q. And you felt betrayed at the fact that if they were  
4 having a relationship, they didn't tell you about it?

5 A. No, I felt confirmed about my suspicion that what had  
6 happened on June 11th was more than what I was told.

7 Q. Okay. But this caused you to be upset, correct?

8 A. I was upset.

9 Q. And that's why you went and confronted Michael Swaine  
10 with the letters?

11 A. I confronted him with the letters, 'cause I wanted him  
12 to know that I knew the truth. It was closure.

13 Q. Where did you go to confront Michael Swaine?

1:31:39 14 A. The theater.

15 Q. Do you remember what day of the week that was?

16 A. No, I don't. It was the same day I found the letters,  
17 and I believe, it was the same day that I left.

18 Q. Do you know why he would be at work on a day when you  
19 weren't there?

20 A. I believe, I was supposed to go to work that day and I  
21 was late.

22 Q. Did you and Michael Swaine generally -- usually drive  
23 to work together or separately?

24 A. We walked.

25 Q. Would you walk there at the same time on most days?

1 A. Most days.

2 Q. Okay. So this day was unusual?

3 A. Yes.

4 Q. Was there anything that had happened on that  
5 particular day that caused you to stay behind that look for the  
6 letters?

7 A. I found a -- a box of -- an open box of condoms that  
8 some had been used.

9 Q. And where did you find that box?

10 A. I believe, they were in the bathroom, but I'm not  
11 sure.

12 Q. Was that a bathroom within your apartment?

13 A. Yes.

14 Q. Okay. Did you and Michael Swaine share that apartment  
15 with anyone else or was it just the two of you?

16 A. It was shared with other -- with a -- one other person  
17 at that time.

18 Q. Okay. Who was that?

19 A. That was Brendan Komala.

20 Q. How do you spell Brendan's last name?

21 A. K-o-m-a-l-a. That's to the best of my knowledge.

22 Q. What was it about finding the box of condoms that  
23 caused you to now search for letters within Swaine's possessions?

24 A. I knew that they were not mine and I knew that they  
25 were not Brendan's, or at least, I believed they were not

1 Brendan's, and so I thought that that might be a clue that would  
2 tell me that more had happened than I was told.

3 Q. So you believed that if they were Michael Swaine's  
4 condoms and one was missing or multiple condoms were missing that  
5 it was -- that he must have been having sex with Jennifer?

6 A. Yes.

7 Q. And Jennifer who was still -- would -- at that point,  
8 did you still consider her your fiancé or were you completely  
9 broken up at that point?

1:33:43 10 A. We were broken up.

11 Q. Okay. Did you still consider her your girlfriend even  
12 if -- if you were going through a period of time where you were  
13 broken up?

14 A. No, we were -- we were broken up.

15 Q. Okay. So after you found these letters, you went to  
16 the -- you said you went to the theater to confront Swaine?

17 A. Yes.

18 Q. Okay. Tell me about what happened once you got there.

19 A. I went in looking for him. And when I found out --  
20 when I found him, I -- I think I read him the letter. And he got  
21 angry. And told me to get to work. And so I chewed him out, and  
22 then I -- I think I announced to a lot of people in the room -- or  
23 in the theater what I believed he had done, and that I was  
24 quitting.

25 Q. What words do you recall using when you said you

1 announced it to the theater?

2 A. I believe, I dropped the f bomb. I believe, that I  
3 announced that I was quitting because Swaine was f-ing my woman,  
4 maybe. Or something like that.

5 Q. Do you remember saying to Swaine, you're fucking my  
6 girlfriend?

7 A. It's possible I said something like that.

8 Q. Who else was present at that theater while this was  
9 taking place?

10 A. I think Kris Perry was probably there, and maybe Leigh  
11 Kuyper.

12 Q. And do you know how Leigh spells -- is it a female or  
13 a male, Leigh?

14 A. Female. L-e --

15 Q. Do you know --

16 A. L-e-i-g-h. I think it was Leigh. L-e-i-g-h.  
17 K-u-y-p-e-r.

1:35:55

18 Q. Was Katie Corbit also present?

19 A. Yes.

20 Q. Was there anyone else present?

21 A. I don't know.

22 Q. Do you remember anything in speci -- anything in  
23 particular that Michael Swaine said to you, other than what you've  
24 already said when you confronted him at the theater?

25 A. I don't have a specific memory of anything I said to

1 him, other than that, no.

2 Q. Was there any physical confronta -- confrontation  
3 between you and Michael at that time?

4 A. No.

5 Q. How long did you stay at the theater before leaving on  
6 that particular day?

7 A. I really don't know. I left right after I was done  
8 saying my peace.

9 Q. So how did it conclude?

10 A. I left. I was walking out, and he was kind of chasing  
11 after me, and I believe, he gave me the finger. I -- I don't  
12 know. I might have given it back to him. I don't know. And I  
13 got in my car and I left.

14 Q. What did you do after you left in your car?

15 A. I went to see Jennifer.

16 Q. Why were you going to see Jennifer?

17 A. I wanted her to know that I knew the truth, as well.

18 Q. Is it fair to say, you were upset with her as well?

19 A. Yes.

20 Q. And you were angry with her?

21 A. Yes.

22 Q. What did you do when you got -- did you go -- where  
23 did you go to see her?

24 A. To her apartment.

25 Q. Okay. And what happened once you got there?

1 A. I knocked on the door. I probably pounded on the  
2 door. And I don't think she let me in right away, but I kind of  
3 calmed down, and -- and then she opened the door.

4 Q. Do you remember anything that was said during that  
5 period of time when you were outside of her door before she opened  
6 it?

7 A. Not off the top of my head, no.

8 Q. Had her door been fixed by that point?

9 A. Yes.

10 Q. Do you know how long it took for her door to get fixed  
11 from the time that you kicked it in?

12 A. I fixed it.

13 Q. When did you fix it in comparison to when you kicked  
14 it in?

15 A. The next day. Something like that.

16 Q. Did -- in that time period, going back to between when  
17 you kicked in the door and you fixed the door, did she make  
18 comments to you about being in fear for her safety and not having  
19 a door with a deadbolt?

1:38:47 20 A. Yes.

21 Q. And she blamed you for that?

22 A. Yes.

23 Q. Now, going back to when you returned to her apartment  
24 after you had been to the theater to see Swaine, what happened  
25 after she opened the door?

- 1 A. I began reading the letter to her.
- 2 Q. Did you go into her apartment?
- 3 A. Yes.
- 4 Q. She let you in the apartment?
- 5 A. She didn't stop me from coming in.
- 6 Q. What do you mean by that?
- 7 A. I think I just walked in when she opened the door.
- 8 Q. Okay. Is it fair to say that you kind of stormed into
- 9 the door?
- 10 MR. BOWMAN: Objection, form.
- 11 A. I walked in the door without a concern, whether or not
- 12 I was actually invited into the door.
- 13 Q. When you got in, tell me what happened.
- 14 A. I read the letter to her.
- 15 Q. Where was she when you read it to her?
- 16 A. We started in the hallway, and she led me into the
- 17 bedroom to talk in there.
- 18 Q. And how did she go about leading you into the bedroom?
- 19 A. I don't remember specifics, but her -- her tone seemed
- 20 to be kind of like, calm down, let's talk, and you know, sit down
- 21 and we'll talk about it.
- 22 Q. Was anyone else in that apartment at the time?
- 23 A. Yes.
- 24 Q. Who was there?
- 25 A. Heidi Steinman.

1 Q. Okay. Who is Heidi Steinman?

2 A. A friend of Jennifer's.

3 Q. Did you know Heidi?

4 A. In passing.

5 Q. Do you know how Jennifer and Heidi met?

6 A. I believe they were sorority sisters.

7 Q. Where was -- where was Heidi at the point in time you

8 were being led into the bedroom by Jennifer?

9 A. I think she was kind of standing in the area between

10 the kitchen and the living room, and bathroom/bedroom entry.

11 Q. And prior to Jennifer leading you back into the

12 bedroom, had Heidi said anything to you?

13 A. She may have. I -- I know that she had some choice

14 words for me. I don't remember exactly what they were or when she

15 said them.

16 Q. Was it --

17 MR. BOWMAN: Heidi did?

18 WITNESS: Yes.

19 Q. Was it fair to say that it was your -- your take from

20 the situation that Heidi was upset with you for being there?

1:41:10 21 A. Yes.

22 Q. Do you recall anything that she said to you?

23 A. Not -- not specifically, no.

24 Q. How long were you in the hallway before Jennifer lead

25 you back to the bedroom?

C03564

1 A. I don't think it would have been more than a few  
2 minutes, but I really don't know for sure.

3 Q. Prior to that day, had there been other instances  
4 between you and Jennifer where you were perhaps upset and she  
5 calmed you down by talking to you?

6 A. I don't remember any specific ones. I really don't --  
7 no, I don't remember other times like that.

8 Q. Would you agree with me that Jennifer knew you pretty  
9 well in terms of your personality?

10 A. I would say so.

11 Q. And at least, on this occasion, she believed that she  
12 could talk you down from being upset? At least, that was the  
13 appearance that she was giving you when -- when she was leading  
14 you back into the bedroom?

15 MR. BOWMAN: Objection, form.

16 A. I don't know what she believed. I -- I -- that's what  
17 she did.

18 Q. What happened once you got back into the bedroom?

19 A. We sat on the bed and I finished reading the letter,  
20 and she attempted to minimize the letter.

21 Q. Describe for me her -- her bedroom. When you say you  
22 sat on the bed, there were -- there were more than one -- there  
23 was more than one bed in that room, correct?

24 A. Yes.

25 Q. Okay. So where were the beds -- when you walk into

C03565

1 her bedroom, just again, so we can kind of visualize what it is  
2 you're talking about, if you could describe the furniture in the  
3 room, and then what bed you went to?

4 A. I think we sat on the -- the single bed that -- oh,  
5 I'm sorry. You needed a description?

6 Q. Sure. Let me back up. If you could describe the  
7 room, first.

8 A. There's -- when you first walk into the door of the  
9 bedroom, from the entryway in the -- from the door, it's longer  
10 than it is wide. And at the back on either side, there -- there's  
11 a bunk bed on the right, and single bed on the left, and then by  
12 the door, there's a desk or chest of drawers or something like  
13 that on either side. And -- and then the closet is on the same  
14 wall as the door.

15 Q. Okay. So as you entered the room, did you sit on the  
16 single bed or on the -- on the bunk bed?

1:43:45 17 A. I believe, we sat on the single bed.

18 Q. Okay. What was your tone when you first entered the  
19 room?

20 A. I was reading the letter very loudly, very angrily.

21 Q. And as the two of you entered the room, was the door  
22 left open or did someone close it?

23 A. I don't remember.

24 Q. What did she say in response to you reading loudly  
25 from this letter?

003566

1 A. I don't know specifics of what she said. I know that  
2 she attempted to minimize the -- the -- the evidentiary value of  
3 the letter.

4 Q. Did you believe that she was being untruthful with you  
5 --

6 A. Yes.

7 Q. -- when she was minimizing it?

8 A. Yes.

9 Q. How did that make you feel at that point?

10 A. It was frustrating. I was pretty much angry  
11 throughout that whole conversation.

12 Q. What -- do you remember anything in spe -- in  
13 particular that she said to you during that conversation?

1:44:46 14 A. I don't.

15 Q. Other than reading a letter to her, do you remember  
16 anything else that you said to her?

17 A. No.

18 Q. How long were you in that room with her? In her  
19 bedroom?

20 A. I don't know. Maybe -- maybe 10 minutes, maybe  
21 longer. I --

22 Q. What happened after you finished reading the letter?

23 A. I think that was when I -- I went to the bathroom,  
24 trying to find evidence that birth control had been used.

25 Q. And what did you do within the bathroom to try to find

C03567

1 evidence?

2 A. I looked in the garbage can. I think I dumped it out.

3 Q. Where did you dump it out?

4 A. Like, right there.

5 Q. On the bathroom floor?

6 A. It might have been. I -- I either -- either on the

7 bathroom floor in the -- on the bedroom floor.

8 Q. What were you thinking that you would find within the

9 trash?

10 A. I thought I might find used condoms or birth control

11 gel, syringes.

12 Q. Did you find any of those things?

1:46:14 13 A. No.

14 Q. What was Heidi doing during the time period when you

15 were going into the bathroom and going through the garbage?

16 A. I really don't know what Heidi was doing.

17 Q. What was Jennifer doing?

18 A. I think she was still kind of talking to me, you know,

19 you're being irrational, that kind of -- that kind of tone of

20 conversation.

21 Q. Was she trying to talk you down, as far as you could

22 tell?

23 A. Well, I don't know if she was trying to talk me down

24 or just maybe defending her position.

C03568

25 Q. Did you tell Jennifer, at that point in time, that you

1 were leaving town?

2 A. I may have.

3 Q. Had you already made that decision that you were going

4 to leave town?

5 A. Yes.

6 Q. When you were at the theater, did you tell Swaine that

7 you were leaving town?

8 A. I don't know.

9 Q. How long do you think that you were in her -- in

10 Jennifer's apartment in total that instance when you went over

11 with the letter?

12 A. I -- I could only speculate and I really don't know.

13 Q. Anything else happen in the apartment that you can

14 recall before you left, after you looked for the birth control, or

15 the condoms or the gel?

16 A. I don't think so. I don't know.

17 Q. Do you remember any further conversation that you had

18 with either Heidi or Jennifer?

19 A. There may have been some parting words, but I really

20 don't -- I -- I know that Heidi was -- like I said, Heidi was

21 angry. I think, she -- she thought she was, sort of, coming to

22 Jennifer's defense.

23 Q. How do you --

24 A. She may have told me to leave. I don't know.

25 Q. How do you recall that concluding, in terms of your

C03569

1 leaving the apartment?

2 A. I think, I stormed out. I probably didn't give her a

3 chance to say anything more.

4 Q. And what did you do after you left?

5 A. I went back to my apartment and I don't know whether I

6 -- I -- I assume I packed the car afterwards, 'cause I was driving

7 around. So I think, I went back and I packed the car.

8 Q. And what did you put into the car? When you say you

9 packed it, what do you mean by that?

10 A. Everything that I had in the apartment, except for the

11 few things I was going to take to Cincinnati with me.

12 Q. Why did you do that?

13 A. Jamie said that I could ride with him, and he would

14 bring me back.

15 Q. When did you have a conversation with Jamie about

16 going to Cincinnati?

1:49:02 17 A. That morning.

18 Q. And was it before or after you had located the

19 letters?

20 A. It was after.

21 Q. Was it before you -- or after you went to the theater?

22 A. I think it was before.

23 Q. What do you remember about your conversation with

24 Jamie?

25 A. He thought that I shouldn't -- I shouldn't try to get

C03570

1 anymore confirmation about what happened, and I should just leave,  
2 and -- and not -- not make it worse.

3 Q. Did Jamie already have plans to leave?

4 A. I don't know if he was planning to leave that today.

5 He probably was, but I -- I really don't know what his -- his time  
6 line was supposed to be.

7 Q. But any -- in any event, the two -- he agreed to go  
8 with you to Cincinnati or to have you come with him to Cincinnati  
9 on that day that you found the letters?

10 A. Yes, I went with him.

11 Q. Okay. And did the two of you discuss the fact that it  
12 was important for you both, you to go with him on that particular  
13 day as opposed to waiting before leaving?

14 A. I guess we did. I -- I really -- I don't -- I'm not  
15 sure what the content of our conversations were as far as that's  
16 concerned.

17 Q. Okay. When you talked to Jamie, was it in person or  
18 over the phone?

19 A. Jamie was staying at my apartment.

20 Q. So was he there when you found the letters?

21 A. Yes.

22 Q. Did he know that you were looking for the letters or  
23 did you show him the letters after you found them?

24 A. I think he knew I was looking for them.

25 Q. Did he help you?

C03571

1 A. No.

2 Q. What was Jamie's relationship to Michael Swaine at  
3 that point?

4 A. He knew him through me.

5 Q. Do you know if they had a -- a good relationship or --  
6 or if they had a -- disliked each other or if there were any  
7 problems?

8 A. I'm sure they were -- they were fine, as far as I  
9 know.

10 Q. Is it fair to say, Jamie was more your friend than he  
11 was Michael Swaine's friend?

12 A. Yes.

13 Q. So he certainly didn't stop you when you had  
14 suspicions and wanted to look for the letters?

15 A. No.

16 Q. Before you left town with Jamie, did you do anything  
17 to notify anyone else about the fact that you were going to leave?

1:51:27 18 A. Yes.

19 Q. What did you do? Sorry. That didn't even come out.  
20 What did you do?

21 A. I wrote a letter to Dr. Brown, who was in charge of  
22 the summer theater program. And I explained to him what happened,  
23 and I was concerned that he might -- might not accept my  
24 explanation, and so I put the letters in there with it. I felt  
25 that I was being unprofessional leaving, but I thought I needed to

C03572

1 leave. And I thought that it was a valid reason to leave.

2 Q. What was your relationship with Dr. Brown, other than  
3 the fact that he was the director of the theater?

4 A. He was also one of my teachers.

5 Q. Was he a person that you would confide in?

6 A. I -- I wasn't particularly close to him, but we got  
7 along fine.

8 Q. Did you ever talk to him about Jennifer before that  
9 day?

10 A. No, I don't think so.

11 Q. Did you have any reason to believe, when you gave him  
12 the letters -- or the letter, that he would know who Jennifer was?

13 A. I don't know if he had ever actually met her, or you  
14 know, at least, knew that she was my girlfriend, but I -- I don't  
15 -- I don't know what he knew about her.

16 MS. EKL: Oops, sorry. If you can mark that.

17 RECORDER: Now, you have this marked as 16.

18 MS. EKL: No, just mark it as Deposition Exhibit 1.

19 RECORDER: Okay.

20 MS. EKL: But don't cover --

21 RECORDER: That's fine.

22 MS. EKL: -- up the -- yeah.

23 RECORDER: Oh, don't need to.

24 MS. EKL: -- previous. Yeah.

25 RECORDER: All right. I mark 'em, this is Exhibit 1,

C03573

1 and then I put AWB, which is the witness's initials. It also  
2 bears today's date and my initials.

3 MS. EKL: Great. Thank you.

4 Q. Okay. Mr. Beaman, I'm showing you what I've marked  
5 Deposition Exhibit Number 1. For the record, it's a 7 page  
6 document. Do you recognize -- if you could take a look at those  
7 pages, do you recognize the -- this document, or this multi-page  
8 document?

9 A. It looks like it's the letter that I wrote to Dr.  
10 Brown and -- and some letters that Jen wrote to Mike.

11 MS. EKL: Is that your conference call?

12 MR. BOWMAN: That means that it's 10 till 12.

13 MS. EKL: And your conference --

14 MR. BOWMAN: And my conference call is at noon, and so  
15 I -- I don't know how much you have to do with this --

16 MS. EKL: I -- I have a few questions. We can go off  
17 for a second, and just discuss. Do we want to take a little bit  
18 early lunch, since you've got your conference call?

19 (Off the record)

20 RECORDER: Back on the record after our lunch break.

21 It says 1:04 P.M.

22 Q. Mr. Beaman, you realize you're still under oath,  
23 correct?

24 A. Yes.

25 Q. Okay. I think, right before we stopped, I asked you

C03574

1 to take a look at Deposition Exhibit Number 1.

2 A. Yes.

3 Q. And have you had a chance to flip through those pages?

4 A. I flipped through it, yes.

5 Q. Okay. Do you recognize each of the pages contained in

6 Exhibit Number 1?

7 A. Yes.

8 Q. All right. What do you recognize that set of

9 documents to be?

10 A. This is the letter and information I gave to Dr.

11 Brown.

12 Q. Okay. And the document, just so it's clear, on the

13 very first page, there's a photocopy, and it looks like a sticker

14 that says, Exhibit and then Grand Jury 16. Do you see that?

1:56:13 15 A. Yes.

16 Q. And is this a sticker that, to your knowledge, was

17 placed onto this document after you -- sometime after you gave it

18 to Dr. Brown during your criminal proceedings?

19 A. That's what it appears to be, yes.

20 Q. Okay. That wasn't on there at the time you gave it to

21 Dr. Brown?

22 A. No.

23 Q. Okay. Let's go through each page of these. I'm going

24 to have you identify them. The very first page of this document,

25 if you could turn back to the first page.

C03575

1 A. Oh.

2 MR. BOWMAN: The very first.

3 Q. Yes, the very --

4 A. The first page.

5 Q. -- first page, yes.

6 A. I'm sorry.

7 Q. Yes. What is this?

8 A. That looks to be like a copy of an envelope.

9 Q. Okay. Do you recognize this copy of the envelope?

10 A. Yes.

11 Q. And what do you recognize that to be?

12 A. It appears to be my handwriting and appears to be the  
13 -- the envelope in which I put the note for Dr. Brown.

14 Q. Okay. The second page of this exhibit, do you  
15 recognize the second two pages? The second and third page?

16 A. Yes.

17 Q. And what do you --

18 A. Yes.

19 Q. -- recognize that to be?

20 A. That looks like the letter that I -- I gave to Dr.  
21 Brown, or that I -- I delivered to him.

22 Q. And is this your handwriting on both of those two  
23 pages?

24 A. It appears to be.

25 Q. Okay. I just want to ask you a couple questions about

C03576

1 some of the things that are contained in this letter. In the --  
2 on the first page, the one that's Bates -- just so it's clear,  
3 Bates stamped MC5430. In the second paragraph, it says, My T.D.  
4 has had very close relations with my very recently ex-fiancé (if  
5 you know what I mean.) Who are you referring to when you said my  
6 T.D.?

1:57:46

7 A. Michael Swaine.

8 Q. Okay. And what does T.D. stand for?

9 A. Technical director.

10 Q. Okay. And when you say ex-fiancé, are you referring  
11 to Jennifer Lockmiller?

12 A. Yes.

13 Q. If you could turn to the next page, am I accurate in  
14 stating that it reads, If that makes me a nobody or means I'm  
15 through @IWU - okay but the things that I've found and witnessed  
16 about my aforementioned room-mate and my ex-fiancé have crushed my  
17 spirit. Is that how that reads? Did I read that accurately?

18 A. Yeah, that -- that's how that reads.

19 Q. Okay. What did you mean by the things that you found  
20 and witnessed?

21 A. Particularly, the things I included in -- in the  
22 letter for Dr. Brown. The -- the letters from Jennifer to Swaine,  
23 and the -- what appeared to be a developing closeness between  
24 Jennifer and Mike.

C03577

25 Q. Okay. And that's the closeness that you described

1 earlier that you observed between the two of 'em when you would be  
2 together?

3 A. Yeah.

4 Q. Okay. And then you went on to say, I -- I had to get  
5 -- I'm sorry. I had to get out of the slump and its really just  
6 time. Is that correct?

7 A. It's really just time for me to leave.

8 Q. I'm sorry. Time for me to leave. And were you  
9 referencing there, leaving for Cincinnati?

10 A. Yes, leaving town.

11 Q. And then you state, I'm just afraid I'd 'cause even  
12 more hell to break loose. And I think it says lose there, but did  
13 you mean to say loose?

14 A. I -- probably, yes.

15 Q. Okay. What did you mean by that?

16 A. Well, I -- I -- I felt that there would continue to be  
17 arguments, and probably living with Swaine would have been a  
18 really uncomfortable situation. And I didn't want to risk getting  
19 into further arguments with -- with Michael or with Jennifer.

20 Q. Okay. And that's what you meant when you said, I'm  
21 just afraid I'd cause even more hell to break loose?

1:59:59 22 A. Yeah.

23 Q. Okay. At the end of that page, you say, My parents  
24 will just freak out -- well, it says, I'm going to Ohio - don't  
25 call my home phone, my parents will just freak out. Do you see

C03579

1 that?

2 A. Yes.

3 Q. Why were you worried that your parents would freak  
4 out?

5 A. I hadn't told them yet, I don't think.

6 Q. Hadn't told them what?

7 A. That I was leaving early from the theater company and  
8 going to Ohio.

9 Q. You eventually ended up calling your parents, correct?

10 A. I did.

11 Q. When did you call them?

12 A. I believe, I called them right before I left.

13 Q. So you did tell them that you were leaving for Ohio?

14 A. Yes.

15 Q. Did you explain to them why it was you were going to  
16 Ohio?

17 A. I did.

18 Q. What did you tell them?

19 A. I believe that I said, that my roommate is f-ing my  
20 girlfriend.

21 Q. What did they say in response?

22 A. That was not the entirety of the conversation, but my  
23 parents thought I should come home. They thought it was probably  
24 okay for me to leave early from school given the situation, but  
25 they thought I should just come home, and I felt that -- that I

C03579

1 should still go Cincinnati, that that would be more in line with  
2 what the counselor had advised me to do.

3 Q. Had your parents met Michael Swaine or any of your  
4 other roommates at that point in time?

5 A. I'm sure they had. They had been down during the  
6 summer occasionally. I can't say which summer, but they had --  
7 they had been to visit me sometime during some of the -- the shows  
8 that were being done during the summer program.

9 Q. Had they met Jennifer?

10 A. Yes.

11 Q. Okay. If you could turn to the next page, do you  
12 recognize that page?

13 A. Yes.

14 Q. What do you recognize that to be?

15 A. It must have been a -- a label that I put on the  
16 letters from Jennifer, so that Dr. Brown could understand that  
17 that was what was contained in there.

18 Q. And it says on there, from Jen about Swaine?

2:02:17 19 A. Yes.

20 Q. Okay. And are you referencing then the following  
21 page, that's a typed page?

22 A. Yes.

23 Q. I'm just going to read this, and then ask you some  
24 questions about it as we go through it. Okay? The typed page?

25 A. Okay.

C03580

1 Q. Okay. Is it accurate that it states, never before  
2 have i felt so compelled to writ. this afternoon was different: i  
3 awoke with smiles and a light tingling feeling, eager to get up  
4 and think about HIM and last night instead of clinging to the  
5 darkness of my room and despair of my thoughts. the way he looks  
6 at me...my god. the way he looks at anyone with those incredible  
7 deer-like eyes, so deep and brown and innocent. i couldn't, i  
8 can't stop thinking about him, and i don't want to stop. Ashamed  
9 and elated, i knew that this is what it means to be young. i  
10 consume and delight in the simple, unexpected pleasures --

11 MR. BOWMAN: I don't mean -- are -- do you need to --  
12 it -- it's -- it's type written, I don't think there's any dispute  
13 about what it says. Is there a need to --

14 MS. EKL: I'm going to ask some questions after, yeah.

15 MR. BOWMAN: Okay. All right. Go ahead.

16 MS. EKL: i consume and delight in the simple,  
17 unexpected pleasures of his presence -- an electrifying touch, an  
18 unexpected glance, a single coy exchange. Almost too much  
19 happiness to contain. He makes me laugh and think and feel; me,  
20 who is usually someone too numb or analytical to experience the  
21 raw joy of life that i am forever in his debt. i cannot think  
22 about --

23 MR. BOWMAN: It says, for that, i am forever in his  
24 debt.

25 MS. EKL: Thank you.

C03581

1 Q. I cannot think about what is to come; my mind is  
2 reeling with the phenomena of what I have felt with him already.  
3 thoughts of the future just shiver before me like a beautiful  
4 fantasy....this is what has happened, all of these earth-soul  
5 shattering, confusion, passionate, dream-like states. With him.  
6 And it is only the beginning; it has only been two days. And I  
7 still haven't said enough. Did you read all of this on that day  
8 before you gave it to Dr. Brown?

9 A. Yes.

10 Q. And when you read it, did you believe that it was  
11 written by Jennifer?

12 A. Yes.

13 Q. When she refers throughout this to, him, who did you  
14 believe that she was referring to?

2:04:47 15 A. Michael Swaine.

16 Q. And how did this cause you to feel when you read this  
17 state -- this statement by -- or this -- this piece -- this  
18 writing by Jennifer?

19 A. Again, I think I've -- you've asked me about this  
20 before, that I -- I felt that I had found confirmation, to satisfy  
21 my desire to prove that more had happened then -- then what they  
22 told me.

23 Q. Well, isn't it fair to say, it was more than  
24 confirmation? This -- this was -- these were pre -- some pretty  
25 artful words and -- and -- about Jennifer's feelings about Michael

C03582

1 Swaine, correct?

2 A. Yes.

3 MR. BOWMAN: Object to the form of the question.

4 Q. This -- this confirmed more than the fact that they

5 had kissed, correct?

6 MR. BOWMAN: Objection, that's asked and answered.

7 You can -- you can -- you can answer it.

8 A. I think it confirmed a great deal of deep feeling.

9 Q. And Jennifer being someone who you were engaged to --

10 A. Who I had been --

11 Q. -- must have hurt --

12 A. -- engaged to.

13 Q. This must have caused you a lot of pain at that time,

14 correct?

15 MR. BOWMAN: Object to the form of the question.

16 Specifically, engaged to. Not a foundation for that.

17 Q. I -- I'm sorry. You were engaged to Jennifer?

18 A. We had --

19 Q. You testified --

20 A. -- been --

21 Q. -- to that?

22 A. -- engaged.

23 Q. Okay.

24 A. Previously, yes.

25 Q. All right. And maybe there's some confusion, because

C03583

102

1 I believe, at one point, in -- early in the deposition, you said,  
2 that you were engaged until you left for Rockford.

3 A. Until we were broken up.

4 Q. Okay.

5 A. I --

6 Q. And at what -- so when you left for Rockford, at that  
7 point in time, is that when you considered that you were broken up  
8 for -- for good? Or were you referring to an earlier point in  
9 time?

10 A. I think the -- the separation between us was a process  
11 and that process began at a certain time. And -- by the time I  
12 left, that process was definitely over.

13 Q. Okay. So that -- that's my point, is that it was over  
14 -- it was completely over at the point in time you left for  
15 Rockford when you threw that ring -- your engagement ring in the  
16 river, correct?

2:07:03 17 A. That was definitive, yes.

18 Q. Okay. And so even if it was a process, would you  
19 agree that it was over, at that point in time?

20 A. By this point in time, it was over, yes.

21 MR. BOWMAN: Referring to -- and the witness has just  
22 indicated the letter in front of him.

23 Q. Okay. So you're saying, before you threw it in the  
24 river -- before you threw the ring in the river, before you left  
25 for Cincinnati, it was completely over and you didn't have any

C03584

1 expectation that there might -- you might be able to get back  
2 together?

3 A. I had no intention of getting back together with her.

4 Q. Okay. There's some handwritten at the bottom of this  
5 page. It -- do you recognize what that is?

6 A. I can't even tell what it is. It looks like it might  
7 have been some kind of signature.

8 Q. When you found the documents within Swaine's room, was  
9 this -- do you recall whether or not what was written here was a  
10 copy or whether or not it -- there was an original signature  
11 there?

2:07:56 12 A. I don't remember.

13 Q. Okay. Did you recognize what the signature was when  
14 you saw it on the original? Or on the -- the first copy that you  
15 viewed?

16 A. I don't know whether it was there even, but I -- if it  
17 was, I -- I really don't remember.

18 Q. Okay. If you could turn to the next page, and read  
19 what's on that page, please?

20 A. It says, this is someone else's business, but if --  
21 but if you don't understand - then please read it.

22 Q. Okay. And is that in your handwriting?

23 A. Yes, it is.

24 Q. And what are you referring to there?

25 A. I'm referring to the letters from Jennifer to Swaine

C03585

1 or the two letters in the document.

2 Q. Okay. So was this portion of -- of what you sent to  
3 Dr. Brown, was this -- this note or this page actually, I guess,  
4 before the letter that -- the typewritten letter that was in there  
5 regarding what Jennifer wrote?

6 A. Yeah, it would have been the -- sort of, the cover  
7 page to the other two.

8 Q. Okay. The next page, the last page of this document,  
9 do you recognize that page?

10 A. It appears to be a letter that I found. I don't know.  
11 I think -- I think, it's a letter that I found that was in  
12 Swaine's drawer with the letter.

13 Q. Okay. Do you recognize the handwriting that was on  
14 here that starts, Mike, and then goes through until there's a  
15 heart, and then there's -- and some kind of writing after that?  
16 Do you recognize the handwriting?

17 A. Not specifically, no.

18 Q. At the time, did you recognize that to be Jennifer's  
19 handwriting?

20 A. I don't remember.

21 Q. Do you have any reason to doubt that this letter was a  
22 letter from Mike to Jen -- from -- I'm sorry. To Mike from  
23 Jennifer?

24 A. No, I don't.

25 Q. Okay. When you -- well, let me ask you some other --

003586

105

1 other questions. There is some additional handwriting on this  
2 page, as well, correct?

3 A. Yes.

4 Q. And there's certain things within the letter that are  
5 circled?

6 A. Yeah, it appears to be.

7 Q. Okay.

8 A. Do you recognize the handwriting next to those circled  
9 portions of the letter?

10 A. I -- I believe it was -- it was notes that I made for  
11 Dr. Brown so that he would understand why I believed what I  
12 believed.

13 Q. Okay. So you wrote these things on this letter before  
14 you gave it to Dr. Brown?

2:10:17 15 A. I think so.

16 Q. Do you have any reason to doubt that you were the  
17 person who wrote those things, where -- next to the circled  
18 letters?

19 A. I -- I really don't know. It -- it -- that's what it  
20 appears to be. My recollection of it is not that clear.

21 Q. This states -- well, let me -- let me ask you to -- to  
22 read what you believe that it -- that it -- how it reads. So if  
23 you could read the letter, please.

24 A. It's awfully grainy. It's hard to read some of it.  
25 Mike, Like the Crayola? I thought you would. I'm going to take

C03587

1 care of things as soon as I know he will be all right. It starts

2 -- I don't know what that word there is. I'm sure the original

3 Crayola is probably easier to read than in a photocopy.

4 Q. Do you recall from the original view -- version that

5 you saw it saying, i.e. starts seeing a professional? Does that

6 refresh your recollection --

7 A. That --

8 Q. -- as to what --

9 A. -- may be.

10 Q. -- you observed?

11 A. Yeah.

12 Q. Next to the he, what is written there?

13 A. The circled part with the notation, I think, it says,

14 Alan and then maybe like a slash and it says, me.

15 Q. And then next to the portion that's circled, i.e.

16 starts -- what maybe -- seeing a professional, what is written

17 next to that?

18 A. Maybe, my shrink.

19 Q. And who were you referring to when you said, my

20 shrink?

21 A. I would have been referring to the counselor that I

22 went to see through the Wesleyan referral, I guess.

23 Q. Had you told Jennifer prior to the time when you found

24 these letters that you were seeing a counselor?

25 A. I don't know. I think I may have.

**003588**

1 Q. Had you talked to her about the fact that you were  
2 going to see a counselor?

3 A. Yes.

4 Q. Had she encouraged you to go see a counselor?

5 A. Yes, she had.

6 Q. And was that based on the fact that you had broken  
7 down her door and she -- and she believed you had some things that  
8 you needed to deal with?

9 A. I don't know if was specifically based on my breaking  
10 down the door, but I think she felt that I had some things I  
11 needed to deal with, yes.

12 Q. Okay. If you could continue reading after where it  
13 says, professional.

14 A. There's some kind of little notation in parentheses  
15 there, that I can't read. And then it says, I'm trying to word  
16 this -- maybe, is that -- as innocuously as possible - hope you  
17 can decipher! Anyway, I agree w/ what you said - the sooner the  
18 better, etc.

19 Q. And let me stop you for just a second. Is that  
20 portion where it says, I agree with what you said - the sooner the  
21 better, etc., is that circled?

22 A. Yes.

23 Q. And there's some writing next to that?

24 A. It says, their plans.

25 Q. And what did you mean by their plans?

C03589

1 A. I really don't -- don't know. I -- I -- perhaps,  
2 their plans to start a relationship or -- I don't know.

3 Q. Okay. If you could keep reading.

4 A. I'm sorry for all this has worried you. Is that, if  
5 or or?

6 Q. Just to the best of what you believe.

7 A. I'm sorry for all this has worried you. I don't know  
8 why I'm -- maybe -- letting you know - I just want you to know I  
9 won't be putting us in any "situations". Is that it? And now, I  
10 can't make out the next couple of words there. And then it looks  
11 like some kind of a little drawing, and then it says, I'm free!  
12 And then -- and then it says, I am still something to kill you in  
13 -- I'm not sure what it says.

14 Q. It appears to be something might have been cut off,  
15 correct?

2:14:27 16 A. Perhaps, yeah.

17 Q. Okay. Next to where it says, situations in quotes,  
18 there's some handwriting to the left of that, and I apologize --  
19 apologize, it appears that it's -- through the photocopying, cut  
20 off, but do you recall or can you tell from looking at it now what  
21 it said at one time?

22 A. Probably -- it probably says -- well, I mean -- I -- I  
23 -- I would guess it says, getting caught by me, or something like  
24 that.

25 Q. Okay. After you left this letter for Dr. Brown, did

C03590

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1 you talk to anyone else before you left for Cincinnati?

2 A. I believe, I talked to Amy Krehbiel, and I think I  
3 gave this to her.

4 Q. Okay.

5 A. I -- I think, I gave this to her. I don't know if I  
6 slipped it under his door or if I gave it to her. I -- my  
7 recollection is not clear on that.

8 Q. Who is Amy Krehbiel?

9 A. She's a friend.

10 Q. A friend of yours or --

11 A. A friend of mine.

12 Q. Okay. Why did you give it to her?

13 A. I think I was telling her that I was leaving and that  
14 I was going to give this to him and -- and I think she said, she  
15 would.

16 Q. How did you know Amy Krehbiel?

17 A. I've known her since high school.

18 Q. And just again, for the court reporter, do you know  
19 how to spell her last name?

20 A. I believe it's --

21 Q. You didn't know it would be a spelling test today.

22 A. -- K-r-e-h-b-i-e-l. I'm not 100 percent sure on that.

23 Q. I appreciate you trying. Better than I could do. Was

24 she someone that you confided in about your relationship with

25 Jennifer?

**C03591**

2:16:07

1 A. At that time, yes, I suppose.

2 Q. And on that particular day, did you confide in her  
3 regarding the letters that you had found and -- and your feelings  
4 about what was going on with Jennifer?

5 A. Yes.

6 Q. Okay. And what did you tell her?

7 A. I really don't remember specifics of the conversation  
8 other than that I know I told her that I was going to give this to  
9 Dr. Brown, and that I was going to leave. And I believe, she  
10 offered to give it to him for me.

11 Q. Where did you meet up with Amy Krehbiel to -- to give  
12 her these documents if -- if she did?

13 A. She lived at the same apartment building. I believe,  
14 she lived upstairs.

15 Q. Is there anything that you can recall her saying to  
16 you in response to you telling her that you're going to leave and  
17 those other things?

18 A. I really -- I -- no, I don't remember.

19 Q. Did you talk to anyone other than Amy? Other than  
20 what you've already mentioned before?

21 A. I may have, I just don't know.

22 Q. What's the next thing that you remember doing after  
23 you gave the letters to Amy?

24 A. I don't know whether I packed the car before I gave  
25 her the letters or I did that after. But other than that, that

C03592

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1 was when Jamie and I left town.

2 Q. Okay. What was the purpose of going to Cincinnati?

3 A. To relax. To have some fun. To get my head clear,

4 get off of the subject matter. Get over Jennifer.

5 Q. And did Jamie -- was he originally from Cincinnati?

6 A. Yes.

7 Q. Did he have family in Cincinnati?

8 A. Yeah.

9 Q. So is that -- did you stay with family members of

10 Jamie's when you went to Cincinnati?

2:17:44 11 A. At his mother's house.

12 Q. How long did you stay there?

13 A. It was about a week and a half.

14 Q. While you were in -- in Cincinnati, did you make any

15 attempts to get in touch with Jennifer?

16 A. I believe, I called her.

17 Q. Okay. And do you remember when it was that you called

18 her?

19 A. No. Sometime during the week. I probably -- I may

20 have even called her more than once. I don't -- I know I spoke to

21 her on the phone more than once.

22 Q. What was the nature of your conversations with her

23 during that time?

24 A. Subdued from the arguments that had been previous. I

25 -- I really don't have a good recollection of the whole

C03593

1 conversation, but the -- the gist of it was kind of working  
2 through, hey we're going to have to be around each other, we've  
3 got to get over this and get along and that sort of thing.

4 Q. So --

5 A. I -- I wanted them to -- to tell me what I had been  
6 trying to get them to tell me all along. And -- and -- and they  
7 wanted to have me understand that -- that that was their business,  
8 and -- and that I don't get to tell them what to do and that sort  
9 of thing.

10 Q. Is that what -- is what she said to you or did you  
11 also have a conversation with Michael Swaine?

2:19:11 12 A. I talked to both of them.

13 Q. Okay. So essentially, and I'm -- I don't want to  
14 mischaracterize what you're telling me, so let me know, but are  
15 you saying that they were pretty much acknowledging at that point  
16 in time that they were together?

17 A. I think so, yeah.

18 Q. And that it wasn't any business of yours if they  
19 wanted to be together?

20 A. I wouldn't even characterize it as -- as that kind of  
21 a standoffish approach to it, but that -- but that they wanted me  
22 to -- to be okay with it. They -- they wanted to know that I  
23 understood it and accepted it.

24 Q. Okay. Did Jennifer talk to you about still remaining  
25 friends?

C03594

1 A. Yes.

2 Q. And did she continue to say things about wanting you  
3 to be her new best friend or was that -- had that come and gone?

4 A. I don't know if she still used that terminology  
5 anymore after that. Was that a termin -- terminology that she had  
6 really only used for that short period of time between when things  
7 kind of cooled down between the two of you and -- and then when  
8 you found the letters?

2:20:07 9 A. Probably, yeah.

10 Q. Okay. When you were in Cincinnati, did you write her  
11 any letters?

12 A. I don't think so.

13 Q. Were there times when you would refer to -- when you  
14 would write her letters over the course of the time that the two  
15 of you were together?

16 A. During the course of the time we were together, I did  
17 write her some letters, yes.

18 Q. Okay. Okay. And in some of those letters, did you  
19 ever refer to yourself as her new best friend?

20 A. I don't remember.

21 Q. Okay. When you were in Cincinnati, talking to --  
22 well, let me back up. How many times do you think you talked to  
23 Michael when you were in Cincinnati?

24 A. I really don't know.

25 Q. Was it, would you say, less than 6 times or more than

C03595

1 6 times?

2 A. I'd say probably less than 6 times

3 Q. Okay. And were you in agreement with this -- with

4 what they proposed in terms of the fact that they were going to be

5 together, but yet you would still be friendly with the -- the two

6 of them?

2:21:07

7 A. I -- I was, yes.

8 Q. Did you express that to them?

9 A. I told Michael that when -- I don't know if I talked

10 to them -- you know, I don't know when -- on the phone I may have

11 said that, but I know that when I went back to Bloomington, I told

12 them -- I told Michael first, and then I told Jennifer.

13 Q. Told -- told Michael first, what?

14 A. That -- I think I said something to the effect of, you

15 know, take good care of her.

16 Q. And then when you talked to Jennifer, what did you say

17 to her in that regard?

18 A. I may have just told her what I told him. I don't

19 know.

20 Q. Okay. Well, let's -- let's get to that point. So you

21 were in Cincinnati for about a week and a half?

22 A. Yes.

23 Q. And then how did you -- when you left Cincinnati,

24 where did you go?

25 A. Jamie's mother drove us back to Bloomington so I could

C03596

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1 get my car, and then she had business in Rockford, and that was --  
2 I had been planning to leave sooner, but since she was going there  
3 anyways, we waited and went with her, and they dropped me off at  
4 my car, and I went in to the apartment briefly, I think, maybe to  
5 go to the bathroom or something. I don't know what I was supposed  
6 to do with the keys. I really don't remember how all that went  
7 down.

8 Q. Mm-hmm.

9 A. But Michael wasn't there and when he arrived, I talked  
10 to him, and -- and then I went and I talked to Jennifer, and then  
11 I dropped her off at class, and I went home.

12 Q. Okay. So as you were coming back to Bloomington, did  
13 you -- how did you -- how -- at that point in time, in your mind,  
14 how -- how had you -- what did you think the status of their  
15 relationship was at the point in time when you were coming back to  
16 Bloomington?

17 A. I really wasn't sure. I figured that they were having  
18 a relationship. I -- you know, couldn't have -- I couldn't swear  
19 to it, but --

20 Q. So they hadn't confirmed to you, at that -- when you  
21 were talking to them over the phone when you were in Cincinnati,  
22 they hadn't confirmed to you, now we're going to be a couple,  
23 we're together, right?

24 A. I don't think it was explained to me that way, no.

25 Q. Okay. And when you came back, prior to coming back,

C03597

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1 did you let either of them know, I'm going to be back on x day?

2 A. I don't think so.

3 Q. Okay. So they weren't necessarily expecting you back,

4 to your knowledge, on the day that you came back?

5 A. Not that I know of, no.

6 Q. Okay. And you said when you came back to the -- to

7 Bloomington, you went to your apartment briefly and that's when

8 you saw Michael Swaine?

9 A. Yes.

10 Q. Okay. Was Michael Swaine in the apartment when you

11 got there?

12 A. No.

13 Q. He actually pulled up as you were outside the

14 apartment, correct?

15 A. Yes, he did.

16 Q. Who was -- whose car was he driving when he pulled up?

2:23:50 17 A. He was driving Jennifer's car.

18 Q. And was that a surprise to you?

19 A. No.

20 Q. Had you seen him drive Jennifer's car in the past?

21 A. I don't think so, but I don't know.

22 Q. Okay. Did it confirm to you that they were, in fact,

23 a couple?

24 A. Yeah.

003598

25 Q. Okay. Tell me about any communication, at that point,

1 that you had with Swaine -- with Michael?

2 A. That's -- that's when I told you before, that I talked  
3 to him and the gist of the conversation was, take good care of  
4 her. I don't remember all of it, but --

5 Q. What was the tone of the conversation?

6 A. It was pretty much -- I probably wanted him to feel  
7 guilty. But -- but I also knew that I needed to be done with that  
8 part of my life, and needed to move on, and -- and so I was okay  
9 with that.

10 Q. Is it fair to say, that you wanted him to feel guilt  
11 -- that in the course of wanting him to feel guilty, you had to  
12 kind of downplay your feelings toward him?

13 A. I'm sorry?

14 Q. Did you have to kind of, down play your feelings? I  
15 mean, you wanted him to feel guilty, but yet you still harbored  
16 some resentment, is that fair to say?

17 A. I was hurt. I wanted him to know that I was hurt.

18 Q. Okay. Do you remember any of the exact words that you  
19 used with him on that day?

20 A. I really don't.

21 Q. Okay. Did you give him any kind of note when you saw  
22 him?

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

24 Q. Okay. How long do you think you talked to Michael?

25 A. I don't know. Just standing out front, maybe a few

C03599

1 minutes. I don't think -- I don't know whether I went back in

2 with him or not. I don't think I did, but --

3 Q. Was anyone else -- else out there with the two of you?

4 A. I don't think so.

5 Q. And after you got done talking to him, where did you

6 go from there?

7 A. Then I went to Jennifer's.

8 Q. And is that -- you went back to her apartment at South

9 Main Street?

10 A. Yes.

11 Q. Okay. What happened when you got to her apartment?

12 A. Knocked on the door. She let me in. She -- she was

13 late for class, I think, and couldn't stay and talk long. And I

14 said, well, I'll drive you and then you'll have a few more

15 minutes, and so we talked a little bit, and then I drove her to

16 class.

17 Q. Is it fair to say, that you talked to her for a while

18 in her apartment though before you left --

19 A. Yes.

20 Q. -- for her class?

21 A. Yes.

22 Q. Okay. What time of day was this?

23 A. This was in the afternoon, I think. It might have

24 been late morning.

25 Q. Were you familiar with -- or did you know, at that

C03600

1 time, what class she was late for?

2 A. I don't remember.

3 Q. Did you know what her class schedule was back then?

2:26:35

4 A. No.

5 Q. How would you describe her demeanor toward you when  
6 you met with her on that date?

7 A. Polite, friendly, but distant.

8 Q. And how were you treating -- or acting toward her?

9 A. The same.

10 Q. What can you tell me about the conversation that you  
11 had with her in terms of -- as best you can recall, the things  
12 that you said to her and what she said to you?

13 A. She said, something about a -- a 12 step program or  
14 something. She said, that she was trying to get off of the drugs  
15 that she was taking. She -- her tone was that she felt bad about  
16 the way things had transpired, but at the same time, she didn't  
17 regret -- regret that.

18 Q. What kind of drugs was she taking back in that summer  
19 of 1993, to your knowledge?

20 A. To my knowledge, it would be hard to say, because at  
21 any given time that I -- that I knew her, that varied.

22 Q. Okay. What -- what are -- if you could name the drugs  
23 that you've seen her -- or that you -- that -- well, let's start  
24 with the ones that you've seen her take?

25 A. I had seen her smoke marijuana, and I had seen her use

C03601

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1 LSD, alcohol. I don't think I had seen her use anything other  
2 than that, because if I thought that that was going to be part of  
3 her evening, I didn't want to be around.

4 Q. Okay. Well, did you -- were there times when -- let's  
5 start with, did -- would you drink with her during -- during the  
6 --

7 A. I--

8 Q. Let's say from '92 to '93 for my questions, just  
9 during the time of your relationship with her, were there times  
10 when the two of you would drink together?

11 A. Yes.

12 Q. Were there times when you would smoke pot together?

2:28:33 13 A. Yes.

14 Q. Were there times when you would do LSD together?

15 A. Yes.

16 Q. Were there times when you would drop acid together?

17 A. That's LSD.

18 Q. Okay. Same thing. Not -- there's no difference? I

19 didn't -- I don't know.

20 A. No.

21 Q. I'm just asking.

22 A. Yeah. Okay.

23 MS. EKL: Sorry. Busted.

24 MR. BOWMAN: You're not cool enough. You're a

25 newcomer.

C03602

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1 MS. EKL: Sorry, I can't --

2 WITNESS: It's good that you don't know that.

3 MS. EKL: And I'm -- I'm faking the -- the blushing,

4 so --

5 MR. BOWMAN: That is one of the most embarrassing

6 moments I have ever seen in a deposition.

7 MS. EKL: I'd rather -- I'd rather embarrass myself

8 with the fact that I don't know what it is --

9 MR. DiCIANNI: Yeah.

10 MS. EKL: -- then the fact that I'm --

11 MR. DiCIANNI: That's true.

12 MS. EKL: -- very familiar. Sorry.

13 WITNESS: I'm going to put that on a t-shirt.

14 MS. EKL: No climbing out of it. Okay.

15 Q. When you arrived at -- sorry, going back to when you  
16 arrived at Jennifer's apartment, what was she doing at that time?

17 A. I think she was getting ready to -- to leave.

18 Q. Okay. Did you have any conversation with her about  
19 the status of her relationship with Michael?

20 A. Maybe a little bit. I don't really remember her  
21 saying anything a whole lot about it, but -- yeah, I really don't  
22 know. Nothing stands out.

23 Q. Did you ask her questions about the status of their  
24 relationship?

25 A. I don't think I did.

C03603

1 Q. Did you ask her questions about the fact that Michael  
2 was driving her car?

2:30:08

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

4 Q. What was the tone -- and I'm sorry if I asked this  
5 already. I just want to make sure I cover it. What was the tone  
6 of -- of the rela -- of the conversation while you were inside of  
7 her apartment?

8 A. I think you did. Well, you may not have asked, I may  
9 have touched on it. It was that -- well, I -- I did say before  
10 that -- that she felt bad about the way things happened, but she  
11 also didn't regret them, and I was kind of, checking in with her  
12 to make sure we were cool before I left.

13 Q. Did it bother you that she didn't regret what had  
14 happened?

15 A. At that point, I was -- I was kind of facing that as  
16 the reality of things and accepting that.

17 Q. And then you said that you ended up driving her to  
18 class and continued to talk to her in the car?

19 A. Yeah.

20 Q. Okay. And was there anything further about the  
21 conversation in the car that you can recall?

22 A. When she was getting ready to get out of the car when  
23 I dropped her off, she kissed me goodbye, and I told her that's  
24 probably going to be the last time that happens, and -- and that  
25 was that.

C03604

1 Q. Do you remember, about what time it was that you  
2 dropped her off?

3 A. Again, sometime late morning, early afternoon.

4 Q. Now, when you were in her apartment, was that the last  
5 time you had been in her -- you -- you've ever been in her  
6 apartment?

7 A. Yes.

8 Q. Okay. Did you notice anything when you were in the  
9 apartment that was different from the times that you had been  
10 there before?

11 A. It was arranged quite a bit differently.

12 Q. And could you describe what was different, when you  
13 say it was arranged different?

14 A. I think she had -- she had moved -- I'm not sure how  
15 much, but she had moved some of the furniture little bit. And she  
16 had some boxes, like little storage boxes you put together  
17 yourself. And those were, sort of like, under the coffee table  
18 maybe, or something like that. And then Swaine's street sign was  
19 hanging on -- I -- I think above the dart board.

20 Q. How big was that sign?

21 A. It's a full size -- it was a real street sign.

22 Q. Okay. How did you feel when you saw that in the  
23 apartment?

24 A. I thought maybe that suggested that -- that he was  
25 putting down roots in -- in her apartment.

**C03605**

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1 Q. And again, was this confirming perhaps, even more than  
2 what you had imagined was going on between him and Jennifer?

3 A. I thought probably, he was going to move in with her.

4 Q. Did you talk to her at all about that?

5 A. I don't know whether I did. I may have --

6 Q. Do you --

2:33:10 7 A. -- indicated it, I just don't know.

8 Q. Do you recall any conversation about the fact that you

9 -- it appear -- that it appeared that Swaine was putting down

10 roots in her apartment? Any conversation that you had with her

11 about that?

12 A. I really don't know.

13 Q. Was that the last time that you saw Jennifer alive?

14 A. Yes.

15 Q. Did you see anyone else after you left Jennifer, after

16 you dropped her off at her -- at class?

17 A. Not that I know of.

18 Q. Do you remember seeing Jenny Sig?

19 MR. BOWMAN: I'm sorry. Could I have that last

20 question again? I didn't hear it.

21 MS. EKL: Sure. I said, did you see anyone else after

22 you left Jennifer?

23 MR. BOWMAN: Thank you.

24 MS. EKL: And he said, he didn't remember.

25 Q. Did -- do you recall seeing Jen Seig or --

C03606

1 A. Jenny Seig? I -- I would have seen her at our  
2 apartment, Mike's and my apartment probably before I went to see  
3 Jennifer, if I -- I really don't remember seeing her, but I  
4 probably did. I think I remember from the record somewhere that.

5 Q. And just for the record, Seig is spelled S-i-e-g,  
6 correct? If you know.

7 A. I thought it was S-e-i-g, but I don't know.

8 Q. Maybe I typed it wrong. Okay. Do you remember seeing  
9 Kathy Corbit, either before or after you went to Jen --

10 A. Katie Corbit.

11 Q. Okay. Before you went to Jennifer's apartment?

12 A. I don't remember seeing her. If I had, it would have  
13 been also -- they were all living in that same apartment complex  
14 where Michael and I were living.

15 Q. And so is it fair to say, that you don't remember any  
16 conversations with either Jen or Ka -- Katie?

2:34:53 17 A. No.

18 Q. If anyone else that you can recall seeing or talking  
19 to before you left Bloomington that day?

20 A. Maybe a gas station attendant. I -- I mean, I always  
21 stopped somewhere, but I really don't -- nobody that I knew.

22 Q. Where did you go from Bloomington? Where was the next  
23 place you went to?

24 A. Rockford.

25 Q. And is it correct that Jamie's mother followed you to

C03607

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1 Rockford or he followed you to Rockford?

2 A. I think they left before I did. And I was -- I was --  
3 did -- did I follow -- maybe I did, I don't remember. 'Cause I --  
4 I know I went to the house that she was going to and I don't know  
5 if I was given an address or -- this was before GPS in cell  
6 phones. So maybe I did follow, I -- I just don't know.

7 Q. So you remember going to a house in Rockford that  
8 Jamie's mom was going to?

9 A. Yes.

10 Q. In -- in Rockford?

2:35:51 11 A. Yes.

12 Q. Okay. Were you -- what were your plans, in terms of,  
13 how long you were planning on staying in Rockford?

14 A. I was going to stay there until school started again.

15 Q. When was school scheduled to start back up?

16 A. In September, I think. Maybe like, right after Labor  
17 Day. I'm not sure.

18 Q. Did you go straight from Bloomington to Rockford on  
19 that occasion?

20 A. Yes.

21 Q. And what route did you take?

22 A. 39.

23 Q. Does 39 run directly from Bloomington to Rockford?

24 A. It does now. I really don't remember whether, at that  
25 time, it was completed or not. Some -- at some point during the

C03608

1 time I was in school, it was under construction. It may have been  
2 completed by then, I just don't remember.

3 Q. Do you remember that you drove on that particular day,  
4 the same route that you drove every other time, when you would go  
5 back and forth between school --

6 A. That --

7 Q. -- and --

8 A. I would have taken the same normal route, yes.

9 Q. And Jennifer had cheated on you on other times that  
10 you were aware of, before she cheated on you with Swaine, correct?

2:37:12 11 A. I believe so.

12 Q. How many previous times, were you aware of, that she  
13 had cheated on you?

14 A. I believed, that there was one other instance, and I  
15 couldn't prove it.

16 Q. Who was that with?

17 A. With John Murray.

18 Q. Did she ever cheat on you with Stacy -- Stacy Gates,  
19 also known as Bubba?

20 A. I don't know.

21 Q. You are aware that there were times over -- between  
22 1992 and 1993 when she was with Bubba, correct?

23 A. Yes.

24 Q. And were those then times when the two of you had  
25 broken up, or weren't together?

C03609

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1 A. There -- there was -- no, those weren't the only  
2 times.

3 Q. So would those be other occasions where she cheated on  
4 you, if -- if she was with you and then she was also with Stacy  
5 Gates?

6 A. If she was doing something that would classify as  
7 cheating. I don't -- I don't know. I mean, she was in his  
8 company at certain times. I don't know whether or not she was  
9 cheating on me with him.

10 Q. Okay. Did you, at any point time, have a relationship  
11 with her, where that was okay? Where the two of you agree, we'll  
12 be together, but if you want to be with someone else romantically,  
13 I'm okay with it?

2:38:36 14 A. No.

15 Q. And is it fair to say that through 1992 and 1993, it  
16 -- is it a fair characterization to say that your relationship was  
17 tumultuous? Do you know what that means?

18 A. Topsy-turvy?

19 Q. There you go. Is it -- is that a fair  
20 characterization of your relationship with her?

21 A. I -- I would say so, yes.

22 Q. That there were times when the two of you would get in  
23 fights and perhaps break up or not be together for a short por --  
24 period of time, and then you would get back together?

25 A. Yes.

C03610

129

1 Q. What was different about this time, that led you to  
2 decide you were not going to get back together with her?

3 A. Number one, I could prove it. I was certain of it.  
4 And previously, it was hard for me to reject any attempts she  
5 would make of -- of trying to get back together, because I wasn't  
6 certain, and she was denying it. So this time, I knew it was  
7 true. And I could say, okay, I know for sure and I don't want to  
8 be with you.

9 Q. You knew -- you mentioned a couple of times, John  
10 Murray. You knew John Murray back in 1993, correct?

2:39:53 11 A. Yes.

12 Q. He was someone that you considered a friend?

13 A. Yes.

14 Q. Would you have considered -- did you consider him a  
15 good friend?

16 A. No.

17 Q. You knew him also to be a friend of Jennifer's,  
18 correct?

19 A. Yes.

20 Q. And you knew that he sold drugs?

21 A. Yes.

22 Q. What type of drugs did he sell?

23 A. I don't know what everything he sold. I know that --

24 I know for sure he sold marijuana.

25 Q. You were aware that Jennifer would, on occasion, buy

C03611

130

1 marijuana from John Murray, correct?

2 A. Yes.

3 Q. And you indicated earlier that you had, on occasion,

4 smoked marijuana with Jennifer, correct?

5 A. Yes.

6 Q. Did you smoke marijuana with her in 1993?

7 A. At some point in 99 -- 1993, yes.

8 Q. Do you remember when that was?

9 A. Various times throughout the summer, and the school

10 year.

11 Q. How frequently -- just starting off, without

12 necessarily being with Jennifer, how frequently in the summer of

13 1993, did you smoke marijuana?

14 A. During the summer, you're asking?

2:41:06

15 Q. Right.

16 A. Less frequently than during the school year. A couple

17 times a week, maybe.

18 Q. And then, during the school year, how much -- how many

19 times a week did you smoke marijuana?

20 A. It was a little more available, so maybe twice as

21 often as that.

22 Q. What made it more available during the school year

23 versus in the summer?

24 A. Students being there.

C03612

25 Q. So there'd be students that would be able to provide

1 it to you?

2 A. Yes.

3 MR. BOWMAN: I'm sorry.

4 Q. In 1993, did you also ingest other -- other drugs?

5 A. I wouldn't be able to say with certainty.

6 Q. Did you -- how about, did you ingest acid in 1993?

7 A. If -- if I ingested any other drugs besides marijuana,  
8 that's what it would have been, but I really don't remember.

9 Q. There was a point in time, your sophomore year in  
10 college, when you actually sold LSD, correct?

11 A. Briefly.

12 Q. How long -- approximately, when was that, in terms of  
13 the year?

14 A. Early in the school year, but maybe mid first  
15 semester.

16 Q. And was that at a point in time when the people that  
17 you had hung out with freshman year, that were older than you, had  
18 left and you were starting to hang out with some younger people in  
19 the school?

2:42:54 20 A. People my own age.

21 Q. How -- for how long a period of time, did you sell the  
22 LSD?

23 A. I -- I basically made one purchase. And I sold enough  
24 of it to pay for it. And then shared the rest of it with my  
25 friends.

C03613

1 Q. Other than marijuana, did you know John Murray to sell  
2 any other drugs?

3 A. I'm not sure. I know I've -- I may have taken acid  
4 with him, but I don't know whether he sold it. He may have.  
5 Other drugs, I think he dabbled in. I don't know whether he sold  
6 them.

7 Q. At any point, in your life, did you feel that you had  
8 a problem with any type of drugs?

9 A. I didn't feel that I had a drug problem, no.

10 Q. And you smoke marijuana back in 1991, correct?

11 A. Yes.

12 Q. And was there a point in time when you were parents  
13 caught some drug paraphernalia somewhere on your person?

14 A. Yes.

15 Q. Or in your possession?

16 A. Yeah.

17 Q. Based on them finding the drug paraphernalia, did they  
18 express to you that they felt that you had a -- a drug problem?

19 A. I don't even know if they phrased it that way. They  
20 demanded that I stop.

21 Q. And in addition, to demanding that you stop, did they  
22 also require that you go through an outpatient program?

23 A. Yes.

24 Q. Where was that?

25 A. There was a place called the Lighthouse in

C03614

1 Bloomington.

2 Q. When was it that you went to Lighthouse?

3 A. Probably -- probably the whole sophomore year. I'm

4 not -- or was it -- I think, is was my whole sophomore year.

5 Q. That was --

6 A. Or most of it.

7 Q. Sorry, I didn't mean to cut you off.

8 A. That's okay.

9 Q. That was an outpatient program?

10 A. Yes.

11 Q. Okay. Could you just, kind of, generally, describe

12 what that entailed, in terms of how frequently you would have to

13 go in and -- and what kind of treatment you received?

14 A. My first appointment there, I -- I had a meeting with

15 a counselor. I told her that my parents wanted to be satisfied

16 that I wasn't smoking pot, so that I needed to do a year, and

17 screen monthly, that was what they had said they would accept. So

18 they set -- the counselor set that up for me and I -- that's what

19 I did once a month. I went in and -- and gave a -- a urinalysis

20 sample.

21 Q. And that was -- that was during that -- the -- was

22 that during the 1991-1992 school year, or '92-'93?

23 A. I believe, it was '91-'92. I -- I can't say for

24 certain. I'm sure it's in the record.

25 Q. And are you aware that -- I'm sorry. Did I cut you

003615

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1 off?

2 WITNESS: Oh, no. I was -- I was just going to say,  
3 speaking of urine, sorry. If -- if maybe you can get to a  
4 stopping point sometime soon, I'd like to use the bathroom.

5 MS. EKL: We can take one right now. Go right ahead.

6 WITNESS: I'm sorry.

7 MS. EKL: It's okay. It's certainly your --

8 MR. DiCIANNI: That was pretty funny, Alan.

9 (Off the record)

10 RECORDER: Okay. We are back on the record at 2:08

2:46:35 11 P.M.

12 MS. EKL: You can have some.

13 WITNESS: Okay. I don't want to spill anything on  
14 'em.

15 MS. EKL: That's okay. And I'm sorry. Do you mind --  
16 can you -- is it possible for you to read back the last --

17 RECORDER: Sure.

18 MS. EKL: -- question, 'cause I can't remember exactly  
19 where we were at.

20 MR. BOWMAN: Something about urine.

21 MS. EKL: Yeah, I remember that.

22 MR. DiCIANNI: Oh god.

23 MS. EKL: It was all of us standing -- and good thing  
24 -- what a question I asked regarding that so --

**C03616**

25 MR. DiCIANNI: So unnecessary.

1 m I think you were on the last three terms for LSD.

2 RECORDER: Why am I not getting sound? Just a second.

3 Right there. Not getting it.

4 MS. EKL: I -- you know what, I think I know where we

5 are if I repeat one question, if you don't -- if you'll indulge

6 me.

7 RECORDER: All right.

8 MS. EKL: We'll --

9 RECORDER: Thanks.

10 MS. EKL: -- just do it that way.

11 RECORDER: All right.

12 Q. Do you recall that Lighthouse, in fact, found that you

13 did not have problematic substance usage?

2:47:51 14 A. Yes.

15 Q. Okay. When you talked to the people over at

16 Lighthouse, did you tell them -- did you admit to them that you

17 had occasionally smoked pot prior to being admitted into their

18 program?

19 A. Oh, do you --

20 Q. At -- at Lighthouse.

21 A. Did I talk to them about my marijuana smoking prior to

22 participating in their program, yes.

23 Q. Yes.

24 A. Yes.

25 Q. Okay. Okay. And did you tell them that you

C03617

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1 occasionally smoked pot to deal with stress?

2 A. I may have said that.

3 Q. Is that an accurate statement that you smoked pot

4 occasionally, to deal with stress, back at that time period?

5 A. It would be one of many possible accurate answers.

6 Q. Did Lighthouse recommend that you take some classes

7 about productive ways to handle stress?

8 A. I -- I don't know whether they did. They may have.

9 Q. You don't recall them telling you that?

10 A. I don't remember that, no.

11 Q. Do you recall whether, in fact, you took any classes

12 about productive ways to handle stress?

2:48:52 13 A. No, I -- I don't think I did.

14 Q. And again, I'm sorry, if I'm repeating this question.

15 But were you ever with John Murray and Jennifer, at a time when

16 the two of them were smoking pot?

17 A. Yes.

18 Q. And were you smoking pot with them?

19 A. Yes.

20 Q. Do you remember when the last time was that you and

21 Jennifer and John all smoked pot together?

22 MS. EKL: Bless you.

23 A. I really don't.

24 Q. Did you smoke pot with John Murray and Jennifer back

25 in the summer of 1993?

C03618

137

1 A. I don't remember, specifically. It seems like that  
2 would have been part of the summer.

3 Q. Did you ever buy marijuana from John Murray yourself?

4 A. Yes.

5 Q. About how often?

6 A. He was a fairly regular connection.

7 Q. Did he live fairly close to you?

8 A. He lived right across -- I don't know if it's Main  
9 Street or Center Street, the one that's Northbound, right across  
10 campus -- right -- right across the Wesleyan campus.

11 Q. So approximately, how far would --

12 A. Right --

13 Q. -- that be from where you lived?

14 A. During the summer, two blocks.

15 Q. And how far was that then, from where Jennifer lived  
16 on Main Street?

2:50:15 17 A. Roughly a mile, I think.

18 Q. How frequently, to your knowledge, did Jennifer get  
19 marijuana from John Murray?

20 A. I really don't know. Usually, if one of us had it,  
21 the other one didn't bother. So, beyond that, I really couldn't  
22 say.

23 Q. Well, back in the summer of 1993, were you aware of  
24 any other source from which Jennifer would get marijuana other  
25 than John Murray?

C03619

1 A. There weren't a lot of -- there wasn't -- there wasn't  
2 much marijuana in town during the summer. She may have gotten  
3 some -- I don't -- I -- she may have gotten some from John Ritas  
4 that summer. She may have -- I don't know if Swaine had a  
5 connection somewhere. I went to Rockford and got some for us  
6 once.

7 Q. And the connection -- your connection in Rockford, is  
8 that a connection that you had regularly when you were in  
9 Rockford?

10 A. No, it was a friend's connection.

11 Q. When was that, that you went to Rockford to buy pot or  
12 marijuana?

13 A. I believe it was in June -- I think it was June 11th,  
14 the same -- the same date of -- of when the kissing incident  
15 between Swaine and Jennifer happened while I was in Rockford at  
16 that time.

17 Q. And when you say the kissing incident, you're talking  
18 about when you later found out that the two of them had been  
19 kissing on the couch?

20 A. Yes.

21 Q. And so during that incident, you were actually out  
22 doing something for Jennifer, at the time, she was kissing your --

23 A. Well, both of them.

24 Q. Okay.

25 A. Yes.

**C03620**

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1 Q. At the time when she was kissing your roommate --

2 A. Yeah.

3 Q. -- on the couch, correct?

4 A. Yes.

5 Q. And did -- was that something else that added to your  
6 feeling of betrayal and -- and frustration or -- or upset in  
7 regard to that summer?

2:52:20 8 A. Maybe, marginally.

9 Q. Was that the only time that you had gone to buy pot  
10 for Jennifer?

11 A. The only time I went to Rockford to -- to buy pot for  
12 anyone during the school year or specifically that way.

13 Q. Okay. But were there certainly other times when,  
14 perhaps, you would buy pot from Murray and he wouldn't necessarily  
15 be with you and Jennifer, and the two of you would smoke it, is  
16 that fair to say?

17 A. We shared.

18 Q. Okay.

19 A. Yes.

20 Q. And when you say, we, you're talking about you and  
21 Jennifer?

22 A. Me and Jennifer shared, yeah.

23 Q. And sometimes, was Mike -- was -- was Murray involved

24 -- I mean, not -- sorry, not Murray. Was Michael Swaine a person

25 ... that you would share pot with?

C03621

1 A. Yes.

2 Q. In the course of your civil litigation, have you  
3 become aware of the fact that there's allegations about Murray  
4 being arrested for selling pot?

5 A. In the course of the civil litigation?

6 Q. I'm sorry. In the course of -- let's just -- let me  
7 -- let me back up and ask it a different way. At some point, did  
8 you become aware of the fact that Murray was selling pot? That  
9 was a really bad question. That he was arrested for selling pot?

10 A. Some point during my appeal, yes.

11 Q. Okay. Was that the first time that you learned that  
12 he had been selling pot and that -- and he was arrested for that?

13 A. That was the first time I learned that he was arrested  
14 for it.

15 Q. Okay. Learning that he had been arrested for selling  
16 pot, that wasn't a surprise to you, correct?

17 A. No, it wasn't a surprise to me.

18 Q. Had you talked to -- had you told your Counsel, back  
19 during your criminal trial about your knowledge of Murray's drug  
20 dealing at -- during the time of trial?

21 MR. BOWMAN: Objection. Yeah that's not happening.

22 MS. EKL: Okay.

23 MR. BOWMAN: And specifically, to be clear on the  
24 record, the conversations between Alan and his criminal defense  
25 Counsel are privileged under the attorney client privilege. So

C03622

1 not only, am I making an objection here, Alan, I'm instructing you  
2 not to answer and be alert to that yourself.

3 Q. And I just want to be -- make sure that I'm clear in  
4 terms of your objection, that my -- my questions, I intended to be  
5 limited to those things that you're claiming were withheld from  
6 Alan and from his defense Counsel. And so my questions were only  
7 to the extent that he may have conveyed information to his  
8 attorney about the things that, for instance, this arrest, and the  
9 other things -- you're preventing him from answering questions  
10 about -- about the things that you're claiming were withheld.

11 MR. BOWMAN: That's my position.

12 MS. EKL: Okay.

13 MR. BOWMAN: Right. I -- and -- and obviously, I'm  
14 not -- to be clear, not specifically seeking to prevent that, but  
15 I am -- I am invoking the -- the privilege, generally, and it  
16 encompasses the -- the subject of your questions about that.

17 MS. EKL: Okay. And I'm not trying to difficult. I  
18 just want to make sure I'm clear, 'cause you said, you're not  
19 intending to prevent that, what do you mean by -- not to put you  
20 at --

21 MR. BOWMAN: No, no.

22 MS. EKL: But just --

23 MR. BOWMAN: No --

24 MS. EKL: -- so it's clear.

25 MR. BOWMAN: What I said is, I'm -- I'm not intending

**C03623**

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1 to prevent that specifically. That -- I -- I just wanted to be  
2 clear. I mean, anything that you want to do to explore the  
3 question of what Counsel knew about whatever is fine. Or anything  
4 that you want to explore about -- you know, to the extent you're  
5 not asking boo about his work product, you know, it's -- it's not  
6 an area I'm foreclosing. But the communications between Alan  
7 Beaman and his criminal defense Counsel are covered by the  
8 attorney client privilege. And I am not intending to waive that  
9 privilege for any subject, including this one.

10 Q. John Murray was another person with whom Jennifer was  
11 unfaithful to you, correct?

12 A. I believe so.

13 Q. That was someone that you suspected had been having  
14 some kind of intimate relations with Jennifer, correct?

2:56:45 15 A. Yes.

16 Q. When did you first have suspicions that Jennifer and  
17 John were having intimate relations?

18 A. I couldn't tell you the date, but there was a -- an  
19 occasion when Jennifer was supposed to be out at a bar with some  
20 friends, and I went over to John's, and she was there with him  
21 alone.

22 Q. Were there other instances that led you to believe  
23 that the two of them were being intimate?

24 A. Later that night -- that was the same -- I believe,  
25 the same day when she was irritated that I was there at John's.

C03624

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1 And I won't try to speculate from an unclear memory as to how, but  
2 she made it clear to me that she didn't really want me to be  
3 there. I was probably a little bit angry about that, but I left.

4 And she called and broke up with me, and so I went to her house to  
5 get my stereo, and his car was there. So that was an indication  
6 to me that they had gone back to her place to be alone.

7 Q. Let me go back a little bit. When the incident -- the  
8 incident where she was supposed to be at a bar and -- and you  
9 found her at John Murray's house, when did that take place?

10 A. I couldn't say for sure, but perhaps sometime in -- it  
11 was sometime in the school year of '92, '93, I -- I don't know  
12 which.

13 Q. Do you believe that to be sometime around the spring  
14 of 1993?

2:58:48 15 A. It's likely.

16 Q. Did you feel that there were times in the spring of  
17 1993, that you were catching Jennifer in what, you believed, to be  
18 lies?

19 A. I don't remember specifically about that. When you  
20 say that she was supposed to be in a bar during that one -- the  
21 first instance that you mentioned, how -- why was it that you --  
22 why -- why do you believe that she was supposed to be in a bar?

23 What do you mean by that?

24 A. I think that's what she told me she was doing.

25 Q. So would that be an example of a time that she told

003625

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1 you she was going to the bar and she was somewhere else that she  
2 lied to you?

3 A. That would be a time that, I believed, that she lied  
4 to me, yes.

5 Q. What was it on that occasion, that caused you to go to  
6 John Murray's when -- after she told you she was going to the bar?

2:59:35

7 A. I don't remember.

8 Q. Had you planned to go there to see if she was there?

9 A. I'm not sure if I was trying to look for her or not.

10 Q. Were there any other times that you can recall, as you  
11 sit here today, where she told you she was going to be in one  
12 location and you found her or found out that she was in another  
13 location?

14 A. I can't think of any others, no.

15 Q. And even if you can't remember any specific incidents,  
16 do you have a general memory that that was the case?

17 A. That was not a common thing.

18 Q. You said, there was other times -- or at least,  
19 another time when you were at Murray's house, and she was angry  
20 that you were there?

21 A. That was the same occasion.

22 Q. Okay. So you showed up at Murray's, and she was  
23 there, and then she appeared to be angry that you were there?

24 A. Yes.

C03626

25 Q. Okay. And when you arrived and you were there with

1 the two of t did any kind of argument ensue?

2 A. No, there was no argument.

3 Q. Did you confront her with the fact that she had told  
4 you -- or that she was supposed to be at a bar and then she was  
5 Murray's?

6 A. No, I don't think so.

7 Q. Were there any other times when she said -- told you  
8 truthfully, I'm going to John Murray's house?

9 A. I don't remember.

10 Q. Was the mere fact that she was at Murray's house, was  
11 there anything about that, that led you to believe they were  
12 having a romantic relationship?

13 A. That, by itself, would not have been a problem.

14 Q. Was there anything else going on during that same time  
15 period that made you suspicious that she had some kind of  
16 inappropriate relationship with Murray?

17 A. I don't remember anything specific, other than that.

18 Q. How long did you and Jennifer remain broken up after  
19 she broke up with you, because of the fact that you were there  
20 with her and Murray?

21 A. I think, she came looking for me the next day. It  
22 usually didn't go more than a day or two.

23 Q. Did she break up with you while you were still at  
24 Murray's house?

25 A. No.

C03627

1 Q. Where did she --

2 A. She --

3 Q. Tell me about the break up, how that happened.

4 A. She called me. I don't remember exactly what she  
5 said, but she called me and broke up with me.

6 Q. Did you recall her telling you, that she felt that you  
7 were hassling her and John Murray?

8 A. Probably the -- the gist of the conversation.

9 Q. Where were you living at that time?

10 A. I believe, I was living at Wallace Hall at that time.

11 Q. That was a dorm?

12 A. It was a small dorm, yes.

13 Q. And who did you live with?

14 A. Kris Carbone and I believe, Chris Wary.

15 Q. Did you talk to either one of them about your  
16 suspicions about Jennifer and John Murray?

17 A. I may have talked to Kris Carbone about it.

18 Q. What do you recall about any conversation with Kris  
19 Carbone about John Murray and Jennifer?

20 A. I don't know. He was just somebody I often talked to.

21 Q. He was someone else that you would confide in  
22 regarding maybe issues or -- that you had regarding Jennifer and  
23 your relationship with her?

3:03:13 24 A. Yeah.

25 Q. Was it after she broke up with you, that you then went

C03628

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1 to her house?

2 A. Yes.

3 Q. Okay. And tell me about that.

4 A. I went to get my stereo.

5 Q. When you got to her house, you said, that you saw his

6 car?

7 A. Yes.

8 Q. Where did you see his car?

9 A. I believe, it was in her parking lot.

10 Q. What kind of car did he drive back then?

11 A. He drove a Trans Am. A black Trans Am.

12 Q. And did you go to her door?

13 A. Yes.

14 Q. And what happened when you went to her door?

15 A. I think, I pounded on the door and yelled something to

16 the effect of, you better your clothes on. Something like that.

17 Q. Was there anything about the way that they were acting

18 with each other, earlier in the day at his apartment, that led you

19 to believe that they would be unclothed and engaged in some kind

20 of sexual acts in her apartment?

21 A. Yeah, because I -- I felt that she was being -- well,

22 is there anything about the way they were acting, maybe not

23 specifically, other than, just that I felt that there was

24 deception involved.

25 Q. And was there anything -- let me just kind of rephrase

C03629

1 it, was there anything in the manner in which just she was acting  
2 that led you to believe that?

3 A. Again, just the deception and -- and perhaps the fact  
4 that she broke up with me following that deception, probably  
5 indicated that she was clearing her conscious for whatever it was  
6 a that they were going to do.

7 Q. When the three of you were at John Murray's house, did  
8 you smoke pot?

3:05:02 9 A. I don't remember.

10 Q. Did you take LSD?

11 A. No.

12 Q. When's the last time, that you recall in the summer of  
13 1993 taking LSD?

14 A. Again, I really don't remember whether I took any LSD  
15 during that summer. It was not something I took as often as  
16 smoking marijuana.

17 Q. When you knocked on her door, no one answered,  
18 correct?

19 A. I don't believe so.

20 Q. Okay. So what was the next thing that you did?

21 A. I started pounding on the door.

22 Q. And did you receive a response?

23 A. I don't remember.

24 Q. What was next thing you did?

25 A. I kicked the door down.

C03630

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1 Q. Before you kicked the door down, did you make any  
2 determination as -- did you do anything to try to determine if  
3 they were inside the apartment?

4 A. I may have looked to see if the lights were on or  
5 something like that.

6 Q. Do you recall whether or nor the lights were on in her  
7 apartment at that time?

8 A. I believe, they were off.

9 Q. Did you hear any noises coming from inside the  
10 apartment?

3:06:00 11 A. No.

12 Q. Was that the first time that you had kicked her door  
13 in?

14 A. That was the first time, yes.

15 Q. And during that first occasion, did she have a  
16 deadbolt on her -- on her door at that time?

17 A. Yes.

18 Q. Were you able to kick it and on the first kick or did  
19 it take several kicks?

20 A. It took several kicks.

21 Q. Do you remember how many?

22 A. No.

23 Q. Were you saying anything as you were kicking her door?

24 A. I might have been yelling.

25 Q. What were you yelling?

C03631

1 A. I really don't know.

2 Q. You don't remember?

3 A. No.

4 Q. You kicked her door in on that occasion in the same  
5 manner that you later kicked it in when you believed Swaine was  
6 inside, correct?

7 A. Yes.

8 Q. What happened once -- well, you were able to kick the  
9 door in, on this occasion, correct? With Mur -- when Murray was  
10 inside?

11 A. Yes.

12 Q. Okay. What happened to the door and or the doorframe  
13 at that time?

14 A. It -- it was pretty much the same. The hinges didn't  
15 come off. Just the -- the deadbolt broke through the door jamb.

16 Q. And did you have any concern on that occasion, that  
17 you would be arrested by the police for kicking in her door?

18 A. I don't think so, at the time. I don't know whether I  
19 worried about that later, but --

20 Q. What happened once you kicked the door in?

21 A. Jennifer came to the door. She was wearing a nightie,  
22 and John was sitting in the bedroom on her bed.

23 Q. As you stood in her doorway, could you see her bed  
24 from the hallway or did you have to go back into the bedroom to  
25 see that?

C03632

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1 A. I may have had to come a little ways in, I didn't have  
2 to go into the bedroom, but I may have had to come in a little  
3 ways.

4 Q. So you kicked the door in and then you entered the  
5 apartment?

3:07:57

6 A. I believe so, yes.

7 Q. Okay. And then was it at that point, that Jennifer  
8 started coming out toward the hallway -- or down the hallway?

9 A. I think she came out before I came in, but as I was  
10 breaking the door down.

11 Q. Okay. Did she say anything to you once you were  
12 inside the apartment?

13 A. She might have yelled at me. I really don't remember.

14 Q. What did you say to her?

15 A. I don't know. I probably accused her of having sex  
16 with him. Or I wanted to -- I think I said, I'm getting my  
17 stereo.

18 Q. Did you threaten her at that time?

19 A. No.

20 Q. Did you go back toward the bedroom once you entered  
21 the apartment?

22 A. I don't think so.

23 Q. Where were you standing when you were able to see John  
24 Murray sitting on the bed?

25 A. Again, I said, I probably had to come in a little ways

C03633

1 before I would see him.

2 Q. And just so that I'm clear, when you say come in a  
3 little ways, are you talking about into the apartment or into the  
4 bedroom?

5 A. Into the apartment, into the initial hallway entryway.

6 Q. And you had described earlier how the bedroom was kind  
7 of off to the right, correct?

8 A. Yes.

9 Q. Did a you have to go into that area off to the right a  
10 little bit, in order to look into the bedroom?

11 A. No, it's a dogleg.

12 Q. So could you see down into the bedroom? Is my -- my  
13 question is, did you --

14 A. From the hallway, you can see into the bedroom.

15 Q. Okay.

16 A. The door is right on the edge of the hallway, the same  
17 wall --

18 Q. Okay.

19 A. -- that is perpendicular to the hallway.

20 Q. Were the lights on in the bedroom when you walked in?

3:09:33 21 A. I think they were.

22 Q. Do you know at what point in time the lights went from  
23 off to on?

24 A. I don't.

25 Q. Did you say anything to John Murray when you entered

C03634

153

1 the apartment?

2 A. I don't remember.

3 Q. Did he say anything to you?

4 A. I don't remember. I don't think he got up off the

5 bed.

6 Q. What do you recall about any conversations that took  
7 place when you broke down -- after you broke down that door?

8 A. I -- I'm not sure. I really don't. I can't think of

9 anything right now.

10 Q. Was this a significant event in your life, breaking  
11 into your girlfriend's or ex-girlfriend's -- at that time, your  
12 girlfriend's apartment, correct?

13 A. Technically, she broke up with me.

14 Q. Okay. So ex -- ex for the night?

15 A. Yes, it was a significant event.

16 Q. This wasn't something you had ever done before,  
17 correct?

18 A. No.

19 Q. Okay. So is there anything that you took, any kind of  
20 drugs or anything else that you can think of that is impairing  
21 your ability to recall any conversations you had after you broke  
22 down the door and entered her apartment?

23 MR. BOWMAN: Object to the form of the question. You  
24 can answer if you understand it.

25 MS. EKL: It's what.

C03635

1 MR. BOWMAN: It's argumentative.

2 A. I really -- I don't know whether I would have been  
3 stoned that night or not. But it was a long time ago.

4 Q. After you entered the apartment, you said, you took  
5 your stereo?

6 A. Yes.

7 Q. Where was your stereo located within the apartment?

8 A. In the living room.

9 Q. What do you remember about that?

10 A. I went and I grabbed it and I stormed out.

11 Q. Was your stereo plugged into the wall?

12 A. It probably was.

13 Q. Do you remember that -- that it was plugged into the  
14 wall?

3:11:23 15 A. I don't.

16 Q. Was your stereo in one piece or did -- were there  
17 multiple --

18 A. It was a one piece.

19 Q. Okay. Is there anything at all, other than grabbing  
20 your stereo, that you can recall happening or you doing, once you  
21 were inside that apartment?

22 A. I don't remember right now.

23 Q. How long were you inside the apartment?

24 A. It wouldn't have been very long.

003636

25 Q. Approximately, how many minutes?

155

1 A. Maybe five, at the most. I don't know, maybe even

2 less. I just don't know.

3 Q. After you grabbed your stereo, did you -- and you left

4 the apartment, what did you do?

5 A. I probably just went back to my dorm room, but again,

6 I -- I don't know. I don't remember.

7 Q. Do you remember anything else that you did that night,

8 after you kicked in the door to Jennifer's apartment?

9 A. I think -- I think, it was the same night John Murray

10 came looking for me.

11 Q. Where were you when you became aware of the fact that

12 he was looking for you?

13 A. I think he called me at my -- my room, but I'm not

14 sure.

15 Q. Did you answer your phone?

16 A. I did.

17 Q. And what did you say?

18 A. I don't remember the specifics of the conversation,

19 but I know that I agreed to meet him on the Quad at Wesleyan.

20 Q. Do you recall anything that he said to you during that

21 conversation on the phone?

3:13:01 22 A. Not specifically, no.

23 Q. And what was the purpose of the two of you meeting on

24 the Quad?

25 A. To -- he wanted to explain. I don't -- I don't think

C03637

1 I called him. I think he called me. My recollection is not  
2 clear.

3 Q. What time of day or night was it when he called you?

4 A. It was -- it was late.

5 Q. Late, like after midnight or late approaching  
6 midnight? Or --

7 A. Probably after midnight. I don't know.

8 Q. And what time was it when you had initially gone over  
9 to her apartment?

10 A. It was late then too.

11 Q. Did you -- you then agreed to meet him at the Quad?

12 A. Yeah.

13 Q. Were you still angry about what had -- what you had  
14 just seen?

15 A. A little bit, yeah.

16 Q. Did you tell anyone back at your dorm about the fact  
17 that you had just broke into Jennifer's apartment and saw her in  
18 there with John Murray?

19 A. I don't know. I may have. I don't even know who was  
20 there when I went back or --

21 Q. And I didn't ask you this, when you saw John Murray  
22 sitting on -- on her bed, do you remember if he was dressed?

23 A. I don't remember. I don't think he -- I don't think  
24 he was naked or anything. I -- I probably would have remembered  
25 that.

C03638

1 Q. So then, did you go to the Quad and meet John Murray?

2 A. Yes.

3 Q. Did you go with anyone?

4 A. No.

5 Q. And to your recollection, did you tell anyone at all

6 that you were going there?

3:14:26

7 A. I don't remember.

8 Q. Did John Murray meet you?

9 A. Yes.

10 Q. And was he with anyone?

11 A. No.

12 Q. Was there -- do you know why it was that the two of

13 you agreed to meet in the Quad as opposed to some other place?

14 A. I don't remember why.

15 Q. Was that your dec -- your suggestion that you meet at

16 the Quad or his?

17 A. I don't remember who suggested it.

18 Q. What happened once you got to the Quad?

19 A. We sat down and talked.

20 Q. Where'd you sit?

21 A. I think we sat on one of the -- there's steam pipes

22 that go under the campus, and there's concrete caps on those, with

23 a manhole over, and those are very warm. And usually we sat on

24 those if you're out there late at night.

25 Q. And what, if anything, do you remember about the

**C03639**

1 discussion between you and Murray, in terms of what you said to  
2 him and he said to you?

3 A. I think the gist of the conversation was that he was  
4 -- something to the effect that he had kissed her. That he didn't  
5 have sex with her. And that -- I don't know. I -- I basically  
6 told him that, okay I'm -- you know, the conversation was  
7 friendly. I guess, I forgave him. I -- I'm not sure what I said.

8 Q. So did you believe him when he said that he only  
9 kissed her?

10 A. Not really, but I guess, I chose to.

11 Q. Did you also forgive her?

12 A. Yes.

13 Q. When was the next time after being at her apartment  
14 that you had a conversation with Jennifer?

15 A. The next day, I think. Unless -- I don't know. If I  
16 called him, I may have -- I don't -- I don't know, but I think the  
17 next day.

18 Q. And what was the -- what do you recall about the next  
19 -- the next time you talked to her after leaving her apartment?

20 A. She came to me, I think, and wanted to get back  
21 together.

22 Q. And you think that was the next day or so?

23 A. I think it was shortly after.

C03640

24 Q. Did she --

25 A. The next day, maybe two days.

1 Q. Did she express to you during that conversation that  
2 she was, at all, scared of you?

3 A. I don't think so. I don't know.

4 Q. Did she tell you anything about being afraid of your  
5 temper?

6 A. She might have.

7 Q. Did she tell you to try to get -- you needed to get  
8 help for that?

9 A. I don't think she said anything about that, at that  
10 time.

11 Q. Was it at a later point in time, when she told you  
12 that you needed to get help for your temper?

13 A. Well, I know she -- she asked me to -- to go see a  
14 counselor. Again, as I said before, she knew there were some  
15 issues that I had to work through. I -- I'm sure it included my  
16 temper. I don't know if that was the only thing that she was  
17 concerned about.

18 Q. And was that, sort of, a condition to her wanting to  
19 get back to you, was that you get help for your temper or -- and  
20 or other things?

21 A. Well, she -- again, she didn't ask me that after the  
22 John Murray door incident, I don't think.

23 Q. Okay.

24 A. That was later on.

C03641

25 Q. Do you remember how much later after the John Murray

160

1 door incident when she was at -- talking to you about your temper  
2 and trying to ask you to get help?

3 MR. BOWMAN: Object to the form of the question.

4 Q. Do you understand my question?

5 A. I'm not sure. Can you ask it again?

6 Q. Sure. You said that she -- she encouraged you to get  
7 help for your temper, correct?

8 A. She encouraged me to get help.

9 Q. Okay. When was that, in comparison to the John Murray  
10 incident?

11 A. I believe it was much later, but I'm not sure.

12 Q. What it sometime in the summer of 1993?

13 A. Yeah, I think so, yes.

14 Q. All right. Let's go -- to me back again to -- when  
15 you arrived in Rockford after the incident with Michael Swaine at  
16 the end of the summer of 1993. You lived in Rockford with your  
17 parents, correct?

18 A. Yes.

19 Q. And your parents live at [REDACTED] ?

20 A. Yes.

21 Q. Is that where they currently reside?

22 A. Yes.

23 Q. They lived in that same location back in 1993 too?

24 A. Mm-hmm.

25 Q. Correct?

C03642

3:19:09

1 A. Yes.

2 Q. How many bedrooms are in that house?

3 A. Three.

4 Q. And is it a one story or a two story?

5 A. It's a ranch.

6 Q. Is that the same house that you lived in when you went

7 to high school in Rockford?

8 A. Yes.

9 Q. And where is your room located within the house?

10 A. I've been in both of the non-master bedrooms at

11 different times.

12 Q. Do you have any siblings?

13 A. I have a brother.

14 Q. And what's your brother's name?

15 A. Kelly.

16 Q. Is that K-e-l-l-y or e-y?

17 A. K-e-l-l-y.

18 Q. Is Kelly older or younger than you?

19 A. He's older.

20 Q. How much older?

21 A. Four and a half years.

22 Q. When you came back to your parents' house at the end

23 of the summer in 1993, was Kelly living in the house at that time?

24 A. No.

25 Q. Where are -- if you could just generally, explain

003643

1 where the bedrooms are in relation to the master bed -- the two  
2 non-master bedrooms are in the relation to the master bedroom?

3 A. They're all in the same cluster at one end of the  
4 house.

5 Q. How long had your parents lived in that house as of  
6 1993?

7 A. As of 1993, I -- we moved in there when I was four.

8 Q. So obviously other -- the other time, other than when  
9 you were living in -- at school, you lived at that address?

10 A. Yes.

11 Q. Other than your parents -- well, let me back up. You  
12 -- at points in time in your life, did you live with Kelly in your  
13 parents house?

14 A. Yes.

15 Q. Okay.

16 A. We were in the same house at points in time, yes.

17 Q. Okay. One of the last time that the two of you lived  
18 in that house together?

19 A. It would have been when he was in college.

20 Q. So probably four and a half years prior -- of four  
21 years or so prior to when you moved back to Rockford in that  
22 summer of 1993?

23 A. Three or four years.

24 Q. Approximately?

25 A. Something like that.

C03644

1 Q. All right. Other than your brother and your parents,  
2 did anyone else live in that house with you at any point in time?

3 A. When I was in junior high school, we had a foreign  
4 exchange student.

5 Q. At any point, when you were staying with your parents  
6 in Rockford in 1993, did your brother come to live or just to  
7 visit?

8 A. He may have come to visit at some point, although  
9 their relationship was -- they were not that close.

10 Q. Was there any particular event that led to that?

11 A. There were breakdowns and dispute between my  
12 sister-in-law and my parents.

13 Q. What was your relationship with your brother between  
14 1991 and 1993?

15 A. I saw him occasionally.

16 Q. Did you ever confide in him about things that were  
17 going on in your life?

18 A. Not that significantly. I -- I may have talked to him  
19 a little bit about Jennifer.

20 Q. Do you remember any specific conversations that you  
21 had with him about Jennifer?

22 A. When he was getting married, I was his best man. And  
23 she didn't come to the wedding with me and she was afraid that I

24 would cheat on her at the wedding. And I believe I talked to him

25 about that a little bit.

003645

3:23:14

1 Q. When did your brother get married?

2 A. The beginning of the summer of '93.

3 Q. Where was it that the wedding took place?

4 A. Somewhere in the Chicago area.

5 Q. And was that something that she had told you, that she  
6 was worried that you would cheat on her when you were at the  
7 wedding?

8 A. Yes. Not specifically that way, but she expressed  
9 concern about that.

10 Q. How did she express that?

11 A. I don't really remember. I -- I -- she didn't try to  
12 get me to not go to the wedding, which I thought she might, but --  
13 I don't know. She wasn't happy about it.

14 Q. From the time that you first started dating Jennifer  
15 until the end of 1993, during the times that you were together as  
16 a couple, did you ever cheat on her?

17 A. No.

18 Q. Were there times when she thought that you had cheated  
19 on her?

20 A. Yes.

21 Q. And she expressed that to you?

22 A. Yes.

23 Q. And was that the cause of some of the breakups between  
24 the two of you?

25 A. Yes.

C03646

1 Q. At some point in the summer of 1993, did you become  
2 aware that Jennifer was going off to California to visit her  
3 brother?

4 A. Yes.

5 Q. And how did you learn about that?

6 A. I believe she told me about it.

7 Q. Do you remember when it was in relation to when you  
8 found her -- when you kicked her door in the second time you, when  
9 it was that she was leaving for California?

3:25:00 10 A. I don't know the exact date, but sometime after that.

11 Q. Was she in California during the point in time when  
12 you were in Ohio?

13 A. I don't think so.

14 Q. Was it after you went back to Rockford that you  
15 learned that she had gone --

16 A. I think so.

17 Q. -- to California?

18 A. I think it was -- she may have had something about it  
19 on August 4th or maybe even sooner than that. I don't know.

20 MR. BOWMAN: I'm going to -- I think that there was --  
21 I don't think you intended to do this, but your question was  
22 whether -- whether she went to California while he was in  
23 Rockford, not whether he learned about her --

24 MS. EKL: Gotcha. I -- you're right. I did not  
25 intend to ask it that way.

C03647

1 MR. BOWMAN: Okay.

2 MS. EKL: Let me ask it another way.

3 Q. When you were in Rockford, did you become aware of the  
4 fact that she was in California?

5 A. Again, I don't know when I became aware of it.

6 Q. But you did become aware of while you were in  
7 Rockford?

8 A. I -- I knew that she was going -- going to go, yes.

9 Q. Okay. Did you talk to her at all while she was in  
10 California?

11 A. No.

12 Q. Did you talk to her at all while you were in Rockford?

13 A. Yes.

14 Q. Either -- either when she was at -- in Bloomington or  
15 in California?

16 A. I talked to her while I was in Rockford. I don't -- I  
17 don't remember talking to her when she was in California.

18 Q. Okay. Did you call her or did she call you?

19 A. We both called each other.

20 Q. When was the first time that you talked to her, in  
21 comparison to when you arrived back in Rockford?

22 A. I really don't remember.

23 Q. Do you remember if you called her or if she called  
24 you?

25 A. I think I called her at least once. I don't know if

C03648

3:26:35

1 that was the first one or not.

2 Q. Do you remember what time of day you called her?

3 A. I don't.

4 Q. What do you remember about that first conversation  
5 after you left Bloomington and returned to Rockford?

6 A. I don't remember anything about it really.

7 Q. Do you remember how long you talked to her?

8 A. I don't.

9 MR. DiCIANNI: I'm sorry. Can I ask a question? When  
10 -- when did this conversation take place?

11 MS. EKL: Let me just ask you, rather than me answer.

12 Q. After you returned to Rockford, is that when you spoke  
13 to Jennifer on the phone?

14 A. At some point after I returned Rockford.

15 Q. Okay. And that would have been sometime at the end of  
16 August or in -- that would have been some time in August after you  
17 had already had this blowup with Swaine in the theater, correct?

18 A. Yeah.

19 MR. BOWMAN: Object to the form.

20 Q. And it was sometime after you had returned back from  
21 Ohio, correct?

22 A. Perhaps sometime after I returned from Ohio and went  
23 back to Rockford I did have a phone conversation with Jennifer.

24 Q. And just so we're clear, is there any more specifics  
25 in terms of the date that you can -- that you can give us.

C03649

1 A. No.

2 Q. Okay. During any point in time, when you talked to  
3 her, when you were in Rockford, did you have any discussions with  
4 her about getting back together with her?

5 A. She did ask if we could get back together.

6 Q. And what do you remember about that conversation?

7 A. I told her I didn't want to.

8 Q. Is there anything more about that conversation that  
9 you can recall?

10 A. I believe, that was the phone call -- I believe, she  
11 called me and that was the phone call -- that was the last time I  
12 talked to her.

13 Q. Tell me everything that you recall her saying to you  
14 during that conversation and everything you said back to her.

15 A. I don't remember all of the specifics of that phone  
16 conversation.

17 Q. Just everything you can't recall.

18 A. But I do remember that she asked if we could get back  
19 together, and I said, no. I don't want to see you. And that was  
20 the last time I talked to her.

21 Q. When you were talking to her, was your tone the same  
22 as it is today when we were sitting here, telling me?

23 A. No.

24 Q. Okay. What was your tone during that conversation?

25 A. I think, I was offended that -- that after all that

C03650

169

1 she was still trying to get back together with me.

2 Q. And why was it that you were offended?

3 A. I think because I -- I felt that I was free of that  
4 whole situation and it needed to be over with and I thought that  
5 she understood that and agreed with it, and I didn't -- I didn't  
6 think it was fair for her to -- to keep trying to get back  
7 together after all that.

8 Q. Did you ask her what the status was of her  
9 relationship with Michael Swaine?

10 A. I don't think I asked her about it.

11 Q. Is that something that you wondered about during that  
12 conversation?

13 A. I really didn't care anymore.

14 Q. Do you remember talking to her about the fact that she  
15 had cheated on you with Michael Swaine during that phone  
16 conversation?

3:30:07 17 A. I may have.

18 Q. Was anyone else in close proximity to you in your  
19 house in Rockford when you were having this phone conversation?

20 A. My parents were in the next room.

21 Q. Did you have any conversations with your parents after  
22 you got off the phone with Jennifer about what they may have  
23 overheard you saying?

24 A. I think so, yes.

C03651

25 Q. And what do you recall about that conversation?

1 A. I think I told them that she wanted to get back  
2 together and I told her no.

3 Q. Did they tell -- give you any advice or tell you  
4 anything in response to that?

5 A. I think, they thought I was making a wise decision.

6 Q. Are there any other communications with Jennifer prior  
7 to that last one that you can remember? And I'm talking about  
8 specifically when you were in Rockford?

9 A. Not specifically. Oh, you are ta -- you are talking  
10 --

11 Q. I -- I'm --

12 A. -- specifically --

13 Q. -- talking about --

14 A. -- when I was in Rockford?

15 Q. Yes.

16 A. I -- I believe we talked on the phone more than once  
17 while I was in Rockford. I'm not sure.

18 Q. Were there any other times in the prior -- previous  
19 conversations where she tried to get back together with you?

20 A. I don't think so, no.

21 Q. What was -- what was the topic or what did the two of  
22 you talk about during those other conversations?

23 A. I really don't remember. I know that I -- I was  
24 concerned about how she was doing, getting over the relationship  
25 and all of that. And I think I called to see if she had gotten

C03652

171

1 home okay from California. I don't remember whether I talked to  
2 her for very long or --

3 Q. Why were you concerned about her getting over the --  
4 you're talking about getting over the relationship with you,  
5 correct?

6 A. Yeah.

7 Q. Why were you concerned that she would have any problem  
8 with that?

9 A. I guess because things had been so topsy-turvy in the  
10 past. I was just concerned.

11 Q. During any of the previous times when the two of you  
12 had gotten in a fight and broken up, she wasn't then -- didn't  
13 start dating another -- another boy immediately, correct?

14 A. Well, I -- I think some of the previous breakups  
15 involved going to see Murray, going to see Bubba. I -- I mean, I  
16 really don't know the specifics of which times she may have gotten  
17 involved with another -- another boy.

18 Q. I'm not -- I'm not talking about the things that led  
19 up to the breakup. I'm saying, in those prior occasions, I think  
20 you previously testified, correct me if I'm wrong, that almost  
21 immediately after you would breakup, she would call you the next  
22 day or you would call her and then the two of you would get back  
23 together, is that fair?

24 A. That's -- yeah, that's fair to say.

25 Q. Okay. In this situation, you had reason to believe

C03653

172

1 that Murray was there to stay the last time you saw the two of  
2 them together, correct?

3 MR. BOWMAN: Do you mean Swaine?

4 MS. EKL: I'm sorry. I'm sorry.

5 Q. Swaine?

6 MS. EKL: Yes, thank you.

7 A. Yeah.

8 Q. 'Cause you saw his -- his sign in her house, correct?

9 A. Yes.

10 Q. And did you see other items of his belong -- other --  
11 other pieces of his belongings in her house when you went there  
12 that last time?

3:33:24 13 A. No.

14 Q. You saw him driving her car, correct?

15 A. Yes.

16 Q. And you had read those letters in which she talked  
17 about some very deep feelings toward him, correct?

18 A. Yes.

19 Q. So you had -- was there anything that led you to  
20 believe that they were not going to be a couple after -- after you  
21 returned to Rockford?

22 A. Not really.

23 Q. Okay. So what was it, given all that, that caused you  
24 to believe that she would upset about breaking up with you?

25 A. I don't know. I really don't remember all of the -- I

C03654

1 don't remember.

2 Q. At any point in time when you talked to her from  
3 Rockford, did you tell her that you were going to hurt yourself?

4 A. I don't think so.

5 Q. Is that something that you could have said to her?

6 A. I wasn't feeling like that's something I would want to  
7 do.

8 Q. Even if you weren't actually intending on doing that,  
9 was that something that you perhaps told her?

3:34:23 10 A. I don't know. I'm sure it was not.

11 Q. During the course of your criminal trial, did you have  
12 occasion to be aware of the fact that there were a number of phone  
13 records that were obtained?

14 A. Yes.

15 Q. And did you look through those phone records or  
16 summaries of those phone records either at the time of your trial  
17 or -- or sometime thereafter?

18 A. Yes.

19 Q. And did you become aware of the fact, either through  
20 that or some other means, that Jennifer had tried to call you over  
21 20 times on one particular day when you were in Rockford?

22 A. Yes.

23 Q. Did you know of that -- did you know that she had

24 repeatedly call your parents house separate and apart from knowing

25 it through the phone records?

003655

1 A. No.

2 Q. Did you have any conversations with your parents about  
3 the fact that she had repeatedly called their house?

4 A. No.

5 Q. Did your parents have an answering machine back in  
6 1993?

7 A. Yes, they did.

8 Q. And was that an answering machine that Jennifer ever  
9 left messages on?

10 A. I -- probably, I really don't remember specific  
11 messages she would have left there, but --

12 Q. During any of your conversations with Jennifer in  
13 Rockford, did she tell you, hey I was trying repeatedly to get a  
14 hold of you?

15 A. I don't think so.

16 Q. Do remember anything like that?

17 A. I don't remember her -- no, I don't remember her  
18 saying that.

19 Q. During any conversations you had with her, did she  
20 express any kind of urgency to talk to you?

21 A. Well, I think when she called asking to get back  
22 together, she was very intent on pursuing that.

23 Q. What led you to believe that she was intent on  
24 pursuing that?

25 A. She was crying. She was telling me that her and Mike

C03656

175

1 were not going to be together anymore and she wanted to get back  
2 together with me.

3 Q. Prior to her leaving all of those messages, had you  
4 left a message for her or talked to her and conveyed to her any  
5 intent to either hurt yourself or hurt her if she didn't break up  
6 with Swaine and get back together with you?

7 A. I certainly never expressed any intent to hurt her.  
8 And I don't think I left her any message about hurting myself  
9 either. As far as I can remember, I had moved on.

10 Q. At trial, you presented an alibi for the day of Jen --  
11 the day Jennifer was murdered, correct?

12 A. Yes.

13 Q. You worked for your uncle Clifford Gray when you  
14 returned to Rockford at the end of the summer in 1993?

3:37:08 15 A. Yes.

16 Q. And what type of work did you do for him?

17 A. Maintenance, building maintenance.

18 Q. Where did that take place?

19 A. At his grocery stores, and at his house.

20 Q. And he had a number of grocery stores that were called  
21 IGA, is that correct?

22 A. Gray's IGA.

23 Q. Gray's IGA. Specifically -- well, let me -- let me  
24 ask this first. Did you work late at night when you worked for  
25 him?

C03657

176

1 A. Yes.

2 Q. What were your hours?

3 A. Normally, I worked from 1:00 in the morning to about  
4 9:00 in the morning. Sometimes, a little bit earlier, sometimes a  
5 little bit later. I think we did some things during the day as  
6 well, but not very often.

7 Q. Was that a Monday to Friday job?

3:38:02

8 A. Yeah.

9 Q. Did you always work at the same location? Or did he  
10 have you work at different stores?

11 A. I worked at different stores.

12 Q. The week of Jennifer's murder, that whole week, were  
13 you working at one particular store or did you move to different  
14 stores every week?

15 A. I was working at the Sandy Hollow store.

16 Q. Do you remember -- or do you know, as you sit here,  
17 what the address is for the Sandy Hollow store?

18 A. I do not.

19 Q. Specifically, on Wednesday, August 25th, did you go to  
20 work at approximately 1:00 in the morning?

21 A. Specifically, approximately, yes, I went to work at  
22 about 1:00 in the morning.

23 Q. Did you have to clock in or check in with anyone when  
24 you arrived there?

25 A. I kept track of my hours.

C03658

177

1 Q. And how did you do that?

2 A. I wrote them down.

3 Q. Where did you write them down?

4 A. On a piece of paper.

5 Q. And what did you do with the piece of paper when -- af

6 -- after you wrote down --

7 A. I gave it to my uncle.

8 Q. Was that something, to your knowledge, your uncle then

9 kept or did he return that back to you?

3:39:04 10 A. I think he kept.

11 Q. Was there any other manner that you're aware of in

12 which your time was kept or your hours were kept track of during

13 the week of August 25th, 1993?

14 A. Not during that week, no.

15 Q. Specifically, on Wednesday, August 25th, what were

16 your duties within the store on the day?

17 A. Most of the maintenance I had done that week was

18 painting. I also -- I believe we tore a small wall out, and then

19 capped off the exposed internal structure of that wall, and we had

20 painted that as well. I can give you stuff for the week about --

21 Q. That's --

22 A. -- what I did there, but it was --

23 Q. That's okay. Just generally. Did you work on --

24 specifically, on August 25, did you work with anyone else within

25 the store?

003659

178

1 A. Dennis Clark.

2 Q. What position did Dennis Clark hold?

3 A. He was the full time maintenance person.

4 Q. Was he someone that was able to verify your

5 whereabouts on Wednesday, August 25th?

3:40:19

6 A. Yes.

7 Q. Did you get off work at your regular time that day?

8 A. With the regular time being approximate, yes.

9 Q. And that would have been approximately when?

10 A. Roughly 9:00.

11 Q. Is it fair to say that your regular -- regular routine

12 during the time was to go to work from 1 a.m. to approximately 8

13 or 9 a.m., come home to your parents house, sleep approximately 8

14 hours, get up, eat dinner with your family and maybe spend some

15 time with them before meeting up with friends and then go back to

16 work. Is that your -- just generally, that was your routine

17 through that --

18 A. Yes.

19 Q. -- time period? And in fact, you testified about that

20 when you testified before the grand jury, correct?

21 A. Right. Yeah.

22 Q. And just so the record's clear, you -- your case went

23 to grand jury -- your criminal case went to -- before the grand

24 jury, correct?

25 A. Yes.

C03660

3:41:19

1 Q. And you testified?

2 A. I did.

3 Q. On Wednesday, August 25th, when you got off work, did  
4 you follow that routine or did you do something different?

5 A. I did something different.

6 Q. Okay. What did you do?

7 A. I made a deposit at the bank.

8 Q. And what bank was it that you went to -- to make that  
9 deposit?

10 A. Bell Federal Savings and Loan.

11 Q. Was that a bank where you held an account?

12 A. Yes.

13 Q. You were interviewed after Jennifer was murdered a  
14 number of times, is that fair to say?

15 A. Yes.

16 Q. In the first interview, do you remember talking to an  
17 investigator Daniels and Hospelhorn?

18 A. Yes.

19 Q. And that took place on August 28?

20 A. I believe so.

21 Q. When you were first interviewed, did you tell them  
22 that you had been to the bank on Wednesday the 25th?

3:42:07

23 A. No, I didn't.

24 Q. Why was that?

25 A. I was very intimidated in that conversation and

**C03661**

1 confused and I don't think I had a clear recollection of anything  
2 during that conversation.

3 Q. What was it that caused you to be confused when you  
4 were -- when they asked you what -- what you had done in terms of  
5 your work routine three days prior?

6 A. In terms of that whole conversation, just the shocking  
7 experience of being put in handcuffs, taken to the police station  
8 and questioned and intimidated by the person questioning me, I was  
9 not thinking clearly.

10 Q. And I'll ask you in a little bit some more questions  
11 specifically about that interview, but -- well, let me ask you  
12 this. When you were being questioned by Daniels and Hospelhorn on  
13 the 28th, did you think that they were investigating a homicide?

14 A. I was told that they were investigating a homicide.

15 Q. You were told that by -- by who?

16 A. By, I believe, the sergeant in the Rockford police  
17 force.

18 Q. And at least, for the first 45 minutes or so of the  
19 conversation that you had with investigator Daniels and  
20 investigator Hospelhorn, they didn't tell you that Jennifer  
21 Lockmiller had been murdered, correct?

22 A. No, not at the beginning.

23 Q. Despite the fact that you -- well, let me back up.

24 You indicated that you were handcuffed, correct?

25 A. Yes.

C03662

181

1 Q. You were handcuffed after you were stopped driving  
2 your car away from your house, correct?

3 A. Yes.

4 Q. You were put into a squad car?

5 A. Yes.

6 Q. And you were asked to answer some questions about some  
7 -- your relationship with some people, correct?

8 A. In the squad car, no.

9 Q. What did they tell you when you were first stopped, as  
10 to why you were being stopped?

11 A. They told me that some police from Normal want to talk  
12 to me about a homicide.

13 Q. Did some Normal police officers then, a short period  
14 of time later, respond to the scene where you were stopped in your  
15 car?

16 A. Yes.

17 Q. In the meantime, had you then been placed in handcuffs  
18 and put into the officers' who stopped you handcuff -- squad car?

19 A. Yes.

20 Q. When the Normal police officers arrived, did they  
21 introduce themselves to you?

22 A. Yes.

23 Q. And that was Hospelhorn and Daniels, correct?

24 A. Yes.

25 Q. Did they tell you why it was that they wanted to talk

C03663

1 to you?

2 A. I asked them why they wanted to talk to me, and they  
3 said, they wanted to ask me some questions about my friend.

4 Q. Did they tell you what friend that was?

5 A. No, they did not.

6 Q. Did you ask?

7 A. No, I felt from the conversation that I was not  
8 welcomed to ask.

9 Q. What about their conversation at the initial point  
10 after they introduced themselves to you led you to believe that  
11 you could not ask them what friend they were talking about?

12 MR. BOWMAN: Objection, form.

13 A. Their answer to my question was very cryptic, and it  
14 seemed that they didn't want to answer my question.

15 Q. Their answer to what question?

16 A. When I asked what -- why they wanted to talk to me. I  
17 believe it was Tony Daniels said, well we want to talk to you  
18 about your friend here. It was not inviting me to -- to ask for  
19 more information. It was dodging the question.

20 Q. They brought you to the police station, they started  
21 asking you specific questions about your relationship with  
22 Jennifer, correct?

23 A. Yes.

24 Q. And they were asking questions about your whereabouts  
25 in the week before -- or the week of -- leading up to the 28th,

C03664

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1 when they were questioning you, correct?

2 A. Yes.

3 Q. They were asking you those specific questions about  
4 what you did each day between the time that they were questioning  
5 you all the way back to the previous Sunday, correct?

3:46:35

6 A. Yes.

7 Q. And at that -- during that initial whole 45 minutes,  
8 when they were asking you all these questions, you never, at any  
9 point, during that time asked them who -- you know, why are you  
10 asking me these questions or what's this about?

11 A. No, I didn't.

12 Q. In fact, at the end of that interview, they confronted  
13 you with the fact that you hadn't asked any questions about why  
14 you were there, correct?

15 A. Yes.

16 Q. You remember that specifically?

17 A. I remember being confronted about not asking that,  
18 yes.

19 Q. Do you remember telling them, I just figured you would  
20 tell me?

21 A. Yes.

22 Q. And do you remember telling them, I have a feeling  
23 somebody has killed her or she is missing or something like that,  
24 what's up?

25 A. Yeah.

C03665

1 Q. You didn't tell them, I didn't ask any questions

2 because you intimidated me and I felt like I couldn't?

3 A. I was still intimidated. I wasn't thinking clearly at

4 all.

5 Q. But at that point in time, they made it clear it was

6 up -- that they expected you to ask what was going on, correct?

7 A. Apparently, yes.

8 Q. And that's why you asked, what's up?

9 A. I guess. I -- I don't know why I asked, what's up.

10 Other than it was, they were saying, you didn't ask. Okay. Now,

11 I'm asking.

12 Q. Were you concerned about the well being of Jennifer

13 while you were sitting there being questioned by Daniels and

14 Hospelhorn?

3:48:03 15 A. Yes.

16 Q. At any point, did you ask about her well being?

17 A. Later on.

18 Q. When did you first ask about her well being?

19 A. I don't know if I specifically asked about her

20 well-being, but in the context of the conversation, I believe, he,

21 at one point, told me that she was in a hospital bed calling out

22 for me, and I asked him if he would take me to see her.

23 Q. When you say, he, who are you referring to?

24 A. Tony Daniels.

C03666

25 Q. After you talked to Daniels and Hospelhorn during that

1 first conversation, you knew you were a suspect in some crime,  
2 correct?

3 A. I had been handcuffed.

4 Q. My question is, you knew you were a suspect, correct?

5 A. I -- I believed I was a suspect, yes.

6 Q. When the officers first confirmed for you that  
7 Jennifer had been murdered, did you have any suspicions at that  
8 time, as to who could have done it?

9 A. I think, at that time, I -- I maybe thought it was  
10 Bubba.

11 Q. In fact, that's what you told them, right? That you  
12 thought it --

13 A. I believe so.

14 Q. -- might be Bubba?

15 A. I believe I told them that.

16 Q. Bubba is Stacy Gates?

17 A. Yes.

18 Q. Did you know Stacy Gates back in 1993?

19 A. In passing, through Jennifer only.

20 Q. Okay. Had you ever met and talked to him or did you  
21 just know of him?

22 A. I had met him briefly.

23 Q. When did you meet him?

24 A. He was -- I think I met him -- it was after we were

25 engaged, but I really can't say specifically when it was. It --

C03667

1 it was sometime after we were engaged, but I don't remember.

2 Q. Where was it that you met Bubba?

3 A. At her apartment.

4 Q. And under what circumstances?

5 A. He had come to visit Jennifer.

6 Q. Was that a planned visit or was he -- did he arrive --

7 A. I believe so.

8 Q. You knew that he was someone that Jennifer had dated,

9 correct?

10 A. Yes.

11 Q. What did you know about the relationship at -- and I'm

12 talking about, what did you know as of the time in 1993 when you

13 had Daniels and Hospelhorn that he could have been someone who was

14 responsible for her murder?

15 A. I knew that they had had an on and -- on again off

16 again relationship for many years. That, in between, boyfriends,

17 that she would go back to him and then break up with him and date

18 somebody else, and go back to him again. And that she had

19 confided in me that he had some odd sexual proclivities. He

20 handcuffed her and she went along with it, but then he took

21 pictures and she was angry about that.

22 Q. What was your understanding about the time period

23 during which they had an on again off again relationship?

24 A. What was my understanding about that time period?

25 Q. About the -- time period? Like when did it start?

C03668

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1 A. Since she was in high school.

2 Q. And is it fair to say that that relationship off and

3 on would occur even up through 1993?

4 A. I really don't know whether she was his girlfriend

5 during 1993, but in 1992, she was.

6 Q. And when you say that she would date him in between --

7 she would date other people in between dating him or visa versa,

8 were you one of the people that she, at least, at some period --

9 point in time, dated and then stopped dating and dated Stacy and

10 then went back to --

11 A. No, after he -- after she stopped dating me, then she

12 started dating Swaine.

13 Q. But early on in your relationship, back in 1992, were

14 there times when the two of you would break up briefly and she

15 would date Bubba?

16 A. I don't know whether she went to see Bubba

17 specifically on any of the times when we were broken up. But she

18 was with him before -- she broke up with him to start going out

19 with me.

20 Q. She obviously talked to you about Bubba, correct?

21 A. Yes.

22 Q. Other than her saying that he had some odd sexual

23 proclivities, were there other things that she told you about

24 Bubba that led you to believe that he was a sus -- that he could

25 have been responsible for her murder?

C03669

1 A. Nothing specifically that -- I know that he moved to  
2 -- well, she told me that he moved and took a new job so that he  
3 could be closer to her, even while they weren't actually dating.

4 Q. When did she tell you that?

5 A. Sometime around the same time that he made the move, I  
6 believe. Because I think, when we started dating, he was living  
7 in Wisconsin, maybe. I'm not sure. And then sometime early on  
8 while we were dating, he took a job, I thought it was Peoria, but  
9 maybe Pontiac, somewhere nearby, so he could be closer to her.

10 Q. Do you remember generally -- or can you tell us  
11 generally, a time frame that that took place, in terms of what  
12 year or what part of the year?

13 A. I think it was in early -- well, no. The -- the  
14 beginning of the semester in -- the fall semester in 1992, I  
15 think.

16 Q. Did she tell you anything about Bubba's personality  
17 that led you to believe that he was a person that could hurt her?

18 A. She never described him as -- as angry or anything  
19 like that. When I met him, he seemed fine.

20 Q. Was one of the reasons you felt that he could have  
21 been responsible, the fact that he had a -- a boyfriend on again  
22 relationship with her?

3:54:29 23 A. I thought it was relevant.

24 Q. Did you also think that was one of the other reasons,  
25 the fact that, despite the fact that they had this on again off

C03670

1 again relationship, he always still managed to stay in her life?

2 A. Yes.

3 Q. He still called her a regular basis, to your

4 knowledge?

5 A. Yes.

6 Q. Had Jennifer made comments about Bubba being crazy or

7 psycho?

8 A. I don't think so.

9 Q. She never told that to you?

10 A. I don't think so.

11 Q. Did you know that Bubba was moving to Peoria to be

12 closer to Jennifer right before her murder?

13 A. Did it happen right before her murder?

14 Q. Did you know that he had plans to move to Peoria the

15 week of her murder?

3:55:34 16 A. I don't know. I thought it was before that, but --

17 Q. You didn't believe that Michael Swain killed Jennifer,

18 correct?

19 A. I didn't. No, I didn't think he killed her.

20 Q. You never -- you've never thought that at any point in

21 time, correct?

22 A. He's never been a prime suspect for me.

23 Q. Was there a difference, in your mind, between a prime

24 suspect and some other kind of suspect?

25 A. I reserve the right not to rule somebody out.

003671

1 Q. What do you mean when you say prime suspect though?

2 A. Well, a better way to phrase it might be that I -- I  
3 didn't think that from what I knew about him that it was likely  
4 that he did it.

5 Q. And so the mere fact that Swaine and Jennifer had a  
6 romantic relationship, that in and of itself, didn't cause you to  
7 believe that he was a suspect, correct? Or a prime suspect?

8 A. No.

9 Q. You knew Michael, correct?

10 A. Yes.

11 Q. And you knew that he didn't have a violent  
12 personality, correct?

13 A. I didn't feel that he had a violent personality.

14 Q. And was that part of the basis for which you didn't  
15 think that he -- or that you thought he wouldn't have been  
16 responsible for this murder?

3:57:12 17 A. I suppose it's part of the basis.

18 Q. In fact, when you talked to Daniels and Hospelhorn,  
19 you told 'em that you didn't see why Mike would kill anyone,  
20 correct?

21 A. Yes.

22 Q. When you refer to a prime suspect, did you think Bubba  
23 was a prime suspect?

24 A. I suppose, maybe.

25 Q. Was there anything else about what you knew about him

C03672

1 or what you later found out about the murder that led you to  
2 believe that Bubba was a prime suspect?

3 A. Not that I can think of, no.

4 Q. Did you feel that Bubba was obsessive at all about  
5 Jennifer?

3:57:58

6 A. I did.

7 Q. Was that part of the reason that led you to believe he  
8 might have been -- might have been the murderer?

9 A. Yes.

10 Q. And his actions of the past of -- of handcuffing her  
11 during the course of their sexual acts, was that something else  
12 that led you to believe that he might be responsible for her  
13 murder?

14 A. I guess it made me think that he was a little strange.

15 Q. Anything else, as you can sit here, that led you to  
16 that belief?

17 A. No.

18 Q. You learned at some point in time about the  
19 circumstances under which she was killed, correct?

20 A. Yes.

21 Q. You learned that someone had entered her home and that  
22 it took place in her apartment, correct?

23 A. Yes.

24 Q. And did you learn that at the time of her murder,  
25 there was no -- there was no signs of forced entry through her

C03673

1 front door?

2 A. I learned that that was -- that was their finding.

3 Q. Okay. Was that another reason that you believed that

4 perhaps Bubba, the person that she knew could have been

5 responsible for the murder?

6 A. There might be a consistency between those, but that

7 to me doesn't necessarily point to Bubba.

8 Q. But was it something that, in your mind, fell in line

9 with your belief that it could have been him?

3:59:24 10 A. It didn't rule him out.

11 Q. Okay. And again, going back to something we talked

12 about earlier, you knew that it was Jennifer's habit to keep her

13 front door locked, correct?

14 A. Yes.

15 Q. And so you had no reason to believe that someone would

16 be able -- a stranger would be able to just walk in with out the

17 door being opened by her from the inside, correct?

18 A. Correct.

19 Q. And would you agree that based on what the

20 investigation revealed, at least as far as what you knew and know

21 today based on the police reports, it -- it didn't appear that --

22 it appeared that she had, in fact, opened the door to let whoever

23 came in, into the apartment?

24 A. It appeared that the door was open when that person

25 came in.

C03674

1 Q. Did the Jennifer ever talk to you about things that --  
2 about -- well, strike that. When you testified before the grand  
3 jury after you were arrested, that took place on July 14 of the  
4 1994, correct?

5 A. I don't know what date the grand jury testimony  
6 occurred on, but

7 Q. Sound about right?

8 A. It sounds like something that would be in the record.

9 Q. Okay. When you were questioned before the grand jury,  
10 was your attorney Mr. Beau present?

11 A. Yes.

12 Q. And you told the grand jury that you and Jennifer were  
13 both friends with John Murray, correct?

14 MR. BOWMAN: Objection to the form of the question. I  
15 think the way to do that is if the -- to read the transcript.

16 Q. That was something that you told the grand jury,  
17 correct?

18 MR. BOWMAN: Same objection. You can answer.

19 A. I believe that's what I told the grand jury.

20 Q. And you told the grand jury that Jennifer was  
21 unfaithful to you with Murray, correct?

22 MR. BOWMAN: Objection. Same objection.

23 A. Without looking at the transcripts, I believe I  
24 probably said that to the grand jury, yes.

25 Q. Do you remember telling the grand jury that she broke

C03675

1 up with you at one point, because she felt that you were hassling  
2 her and Murray?

3 MR. BOWMAN: Objection. Same objection. You can  
4 answer.

5 A. Okay. Again, I -- I believe, that I said that to the  
6 grand jury.

7 Q. And you told the grand jury about how you had gone to  
8 her house and seen Murray's car in the parking lot, and you told  
9 the grand jury that you then kicked in her door, correct?

10 MR. BOWMAN: Objection. Same objection. If you'd  
11 like, we could do a standing objection --

12 MS. EKL: That would be fine.

13 MR. BOWMAN: -- to this -- with respect --

14 MS. EKL: Okay.

15 MR. BOWMAN: -- to this transcript.

16 MS. EKL: Sure.

17 MR. BOWMAN: And then when we get to some other  
18 document, we'll deal with it separately, but for this --

19 MS. EKL: That's fine.

20 MR. BOWMAN: -- transcript, I'll have a standing  
21 objection and then we'll continue with the rest.

22 MS. EKL: Okay.

23 WITNESS: Okay.

24 Q. Do you remember --

25 A. Can you ask it again?

C03676

1 Q. -- telling the grand jury about the fact that you had  
2 kicked in her door when you believed Murray was inside?

3 A. I believe I did tell them that.

4 Q. Okay. When you were in front of the grand jury, you  
5 knew it was important to be truthful, correct?

6 A. Yes.

7 Q. You knew at the time that you were before the grand  
8 jury, that the state was seeking an indictment against you for  
9 murder, correct?

10 A. Yes.

11 Q. And you knew it was important to -- strike that. You  
12 told the grand jury about Jennifer's unfaithfulness to you with  
13 Swaine, as well, correct?

14 A. I believe so.

15 Q. Okay. And you told them about how you had kicked in  
16 the door a second time when Swaine -- when you believed that  
17 Swaine was present in her apartment, correct?

4:03:04 18 A. I believe so.

19 Q. You told the grand jury about the letters you wrote to  
20 Jennifer during your relationship with her, correct?

21 A. I believe so.

22 Q. And some of those letters were provided to the grand  
23 jury as exhibits, correct?

24 A. I believe so.

25 MS. EKL: Let me show you -- we're short a copy.

003677

1 MR. BOWMAN: Is this going to be a longer section or

2 --

3 MS. EKL: Need a break?

4 MR. BOWMAN: Can I go to the bathroom?

5 MS. EKL: Yes, of course.

6 MR. BOWMAN: I'll be quick.

7 MS. EKL: Do we need a -- do you need another copy?

8 RECORDER: Marking Exhibit 2 and off the record.

9 (Off the record)

10 RECORDER: We are getting ready to go on the record.

11 And back on the record at 3:44.

12 MS. EKL: When we took a break, I had the court  
13 reporter mark two exhibits. Mr. Bowman, yours is right there in  
14 front of that container.

15 Q. I'm going to go ahead and show you Number 3 first,  
16 just to get it out of the way, but showing you what has been  
17 marked Deposition Exhibit Number 3. Do you recognize this  
18 document?

19 A. It says, it's the GRAND JURY PROCEEDINGS.

20 Q. Feel free to look through the pages. I'm -- I want to  
21 know whether or not this is something -- not just what it says,  
22 but whether or not you recognize this, as something that you're  
23 familiar with?

24 A. Just looking at the first couple pages, it looks like

25 my testimony at the grand jury hearing.

C03678

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1 Q. Okay. And you testified at the beg -- is there  
2 something -- you testified at the beginning of your deposition,  
3 that one of the documents that you reviewed in preparation for  
4 your deposition here today was your deposition testimony, correct?

5 MS. BARTON: Grand jury testimony.

6 Q. I'm sorry, grand jury testimony?

7 A. I did review it, yes.

8 Q. Okay. And so in -- when you say you reviewed it, did  
9 you review this document Deposition Exhibit Number 3 in  
10 preparation for today?

4:05:07 11 A. Yes.

12 Q. Okay. In reviewing your grand jury testimony, did you  
13 see anything in there that seemed inaccurate, in terms of the  
14 court reporter didn't get down something that you said, or got it  
15 down ac -- inaccurately?

16 A. Not to my recollection.

17 Q. Okay. I'll just take that from you. All right. Now  
18 showing you what has been marked Deposition Exhibit Number 2. And  
19 I -- just so that everyone knows, I took the staple out of it,  
20 which I'll explain in a minute. And do you recognize what I've  
21 put before you that's been marked as Deposition Exhibit Number 2?

22 A. I mean, most of this -- you know, so far, it just  
23 looks like my handwriting. Letters that I wrote to Jennifer.

24 Q. If you could just flip through each page and make sure  
25 that that is the case with each of those pages? That each, is in

C03679

1 fact, your handwriting and includes letter -- or constitutes

2 letters that you wrote to Jennifer?

3 A. It looks like some of it's song lyrics that I was

4 sharing with her. Some of 'em not by me.

5 Q. When you say some of them not by you, are you

6 referring to the lyrics themselves as opposed to the handwriting

7 in the --

8 A. The lyrics --

9 Q. Okay.

10 A. -- themselves, yes.

11 Q. I'll ask you more specifically about what's contained

12 within the documents, but I just want to make sure at this point

13 that each of those pages constitutes your handwriting and

14 something that you either gave to Jennifer in a letter form or

15 otherwise wrote to her?

16 A. Well, without reading them, you know, all the way --

17 yeah, they're -- all looks like things that I wrote.

18 Q. You say on the first page, there's again a photocopy

19 of what appears to be a sticker that was placed on there at some

20 point in time. It says Grand Jury on the side, and then it says

21 Exhibit 17?

22 A. Yes.

23 Q. PV Beaman? I asked you earlier, whether or not you

24 recall when you were in front of the grand jury being shown

25 letters that you wrote to Jennifer Lockmiller. Do you recall me

**C03680**

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1 asking you that just generally, a few minutes ago?

2 A. About another exhibit, yes.

3 Q. Okay. Do you -- are these the -- the letters that  
4 were shown to you during the grand jury, that were then provided  
5 to the grand jury?

4:10:02 6 A. They appear to be, yes.

7 Q. Okay. I recognize that this may take a couple of  
8 minutes, but is there any way by looking at those letters that you  
9 would be able to put them in order according to when you sent them  
10 to Jennifer?

11 A. Probably not. I can -- I can look through -- I can  
12 maybe give you some rough time periods.

13 Q. Okay. Then perhaps what we'll do -- I'm not intending  
14 to have you read every page of each letter, but as we go through  
15 each one, I'll -- I'll have you do it that way. We'll just ask  
16 you generally rough time periods for each one. Unless you think  
17 that you can put them in groups?

18 A. This might take some time to try and put 'em in  
19 groups. I -- I --

20 Q. When was the last time that you've looked at these  
21 documents?

22 A. These, probably the last time I looked at these was --  
23 was -- I don't know. I may have looked at -- at them sometime  
24 during my appeal, but I don't -- I don't think I would have spent  
25 any real time reading them. I think the -- probably the last time

C03681

200

1 I saw them was at trial.

2 Q. Based on your recollection from the last time you  
3 looked at it, if you can answer this question, do you know when  
4 the earliest point in time was, that you wrote any of these  
5 letters?

6 A. The earliest point in time --

7 Q. Right.

8 A. -- that I wrote any of these letters? I would -- I  
9 would suspect the majority of them are from the first summer stock  
10 season, when I started Jennifer, and then I went home to live with  
11 my parents for most of August, and then came back to school.

12 Q. What leads you to believe that most of them were from  
13 that time period?

14 A. 'Cause that's when I did most of my writing to her.

15 Q. What year was that?

16 A. I believe the school year of '91-'92.

17 Q. So would that have been -- if it was over the summer,  
18 would it have been the summer --

19 A. I believe, the summer of '92.

20 Q. Okay.

21 A. Yeah.

22 Q. Is it fair to say that, at least, some of those  
23 letters were written during the 9 -- 1993 time period?

24 A. That's something I would have to really specifically

25 look through for. I don't remember whether I wrote her any

003682

201

1 letters during that time.

2 Q. Okay. Well, let's -- let's go through them, and then

3 I'll ask that as -- rather than have you go through and try to put

4 'em in order.

5 A. Okay.

6 Q. Maybe we can find a faster way to do it.

4:12:39

7 A. Okay.

8 Q. All right. And let me ask you this too, did -- during

9 the time that you were writing Jennifer letters, at any point

10 during your relation -- or -- or at any point during your

11 relationship, did she ever write you letters?

12 A. Yes.

13 Q. Approximately how many letters do you think she wrote

14 you over the course of the time that you knew her?

15 A. I really don't know. I can't say.

16 Q. Did you keep any of those letters?

17 A. I don't have any of them anymore.

18 Q. What did you do with those letters?

19 A. I threw them away at the same time I threw the ring

20 away.

21 Q. So that would have been approximately right after you

22 returned to Rockford at the end of 1993?

23 A. Yeah.

24 Q. Why was it that you threw them away?

25 A. I was closing the books for myself on that

C03683

202

1 relationship.

2 Q. So you had no intention of going back to Jennifer?

3 MR. BOWMAN: Actually, I'm so sorry to be late on  
4 this, but I think you mean, when he returned to Normal in the  
5 summer of '93?

6 MS. EKL: No.

7 MR. BOWMAN: Okay. All right.

8 MS. EKL: Right.

9 MR. BOWMAN: Okay. Sorry.

10 A. When I returned to Rockford, right, is what you're  
11 saying?

12 Q. When you returned to Rockford? Right.

13 A. Yes.

14 Q. You had no intention at that point, when you returned  
15 to Rockford, of ever getting back together with her?

16 A. No.

17 Q. Okay. And you were saying you disposed of those  
18 letters at the same time you disposed of the ring which was also  
19 in Rockford, correct?

4:13:50 20 A. Yes.

21 Q. Okay. Where did you -- where did you store those  
22 letters prior to that point in time?

23 A. I don't know.

24 Q. Well, was it in Rockford or was it Bloomington or  
25 Normal?

C03684

203

1 A. I probably had them in one of the boxes that traveled  
2 with me. When I was at school, it was at school with me, and when  
3 I was at home, I was at home. I didn't leave a whole lot at my  
4 parents' house. I didn't have a whole lot so --

5 Q. Do you specifically have a recollection as you sit  
6 here today, of getting rid of those letters when you returned to  
7 Rockford?

8 A. Do I today have a specific recollection of getting rid  
9 of them, no.

10 Q. Do you remember the manner in which you got rid of  
11 them?

12 A. I -- I believe, I may have thrown them in the river  
13 with the ring. I just -- I'm not sure of that.

14 Q. Okay.

15 A. But it was in the same time period.

16 Q. Was there anything else that you can recall of  
17 Jennifer's or anything related to Jennifer that you threw in the  
18 river at the same time as the ring and possibly the letters?

19 A. I don't think so, but I don't -- I can't verify that.

20 Q. Okay. All right. Well, let's go through Deposition  
21 Exhibit Number 2. This first -- if you could identify whether or  
22 not this first page is a complete document or if the letter goes  
23 on into multiple pages. If we can just identify how --

24 A. It looks like it starts and then it's signed at the  
25 end.

C03685

1 Q. Okay. Looking at this letter, are you able to roughly  
2 date when this was given to Jennifer?

3 A. I wrote that song in the summer of '92.

4 Q. And when you say I wrote that song, what portion of  
5 this letter are you referring to?

6 A. The bottom half. It says, song lyrics that I --

7 Q. Is that --

8 A. -- wrote.

9 Q. Is that the portion that starts, confused a fool?

10 A. Mm-hmm.

11 Q. I'm sorry. Is that yes?

12 A. Yes. I'm sorry.

13 Q. And does it continue all the way to the bottom of the  
14 page or does it end before that?

15 A. That's --

16 Q. In terms of the song lyrics?

17 A. It con -- continues until the signature.

18 Q. Okay. So the last part of it is, fear of resolution  
19 is our only sin?

20 A. Yes.

21 Q. Okay. The first paragraph, could you just read for me  
22 the first -- the first five lines from, I'm sitting to drop me?

23 A. Okay. I'm sitting here doing nothing. Can't sleep,  
24 so i just think about you. Thinking about you puts me to sleep at  
25 night and wakes me up in the morning. I'm always afraid that

C03686

205

1 you'll get scared of "us," and that you'll drop me.

2 Q. Why back sometime after the summer of 1992 or in the  
3 summer of 1992, when you wrote these lyrics, did you have a fear  
4 that she would get scared of "us" and -- meaning -- is that  
5 meaning the two of you?

6 A. Of the relationship.

7 Q. Okay. And that she would drop you?

8 A. I thought that maybe she would be afraid of  
9 commitment.

10 Q. Was this prior to your engagement or after?

4:17:00 11 A. This was prior.

12 Q. Okay. If you could look at the second page, just for  
13 the record, the bottom is marked 6 -- page 619 circled. Is that a  
14 complete -- is that one page, 619, is that a complete document or  
15 does that move on to the next page?

16 A. It doesn't seem to have an introduction.

17 Q. If you can maybe flip through and see if there's  
18 another page you think goes with that. And I apologize. This is  
19 the manner in which we received them, and I just want to make sure  
20 that they're --

21 A. Sure. I understand. I -- those two appear to go  
22 together, the Billy Joel lyrics continue from one page to the  
23 next. I see there's a signature at the end of 620, so what I'm  
24 missing is an introduction to that. So maybe the first page is  
25 missing for some reason.

C03687

206

1 MS. EKL: Why don't we -- if it's okay with everyone  
2 else, just take a couple minutes and on -- without asking you to  
3 have to put them in date order, if you could just take a couple  
4 minutes to try to figure out what goes together in terms of, we  
5 can maybe just criss cross and I think it might speed things up in  
6 the end, if you can just do it all at once.

7 MR. BOWMAN: That's okay with me.

8 RECORDER: Off the record at 4:00 even.

4:19:08

9 (Off the record)

10 RECORDER: Back on the record at 4:10

11 Q. Mr. Beaman, I had you during the break go through the  
12 stack of documents that constitute deposition exhibit number 2,  
13 correct?

14 A. Yes.

15 Q. Okay, and to the best of your ability did you go  
16 through those documents and try to put them together so that the  
17 corresponding pages are next to each other?

18 A. Yes, I believe. To the best -- to the best of my  
19 ability.

20 Q. Okay. And I think that you mentioned off the record  
21 that it appears there might be a few pages missing here or there,  
22 correct?

23 A. Some of the -- some of the pages appear to be missing,

24 perhaps an introduction.

C03688

25 Q. Okay. I'm going to go through each of them in the

207

1 order in which you've put them together and if it's missing a  
2 page, then I'll have you identify that with each group. So we'll  
3 kind of handle it as we go through and we'll let the rest of  
4 counsel know what pages we're referring to so they can put their  
5 own copies together. All right. So you also handed me two  
6 different stacks. Is there a difference between this stack -- the  
7 first stack of documents and the second?

8 A. This stack of documents appear to have some kind of  
9 introduction and a signature at the end whereas the other stack,  
10 either have one or the other, but don't appear to have both.

11 Q. Okay. All right. I'll start with the documents --  
12 the stack of documents that you believe are complete, and then  
13 we'll just go through to the others. And for Counsel's benefit,  
14 the first group of documents, and I'll refer to the -- the state's  
15 attorney numbers are the bottom that are circled, is 631, 632 --

16 MR. BOWMAN: I'm so sorry, Beth, before you do that,  
17 can we just leave it 618 at the top, so that --

18 MS. EKL: Yes, right. We've already talked about that  
19 one so --

20 MR. BOWMAN: Okay. Sorry.

21 MS. EKL: That's okay. So it's 631, 632, 633, 634,  
22 chronologically through 638, so those appear to be --

23 A. Okay.

24 MR. BOWMAN: Hold on just a second.

25 MS. EKL: Sure.

C03689

208

1 MR. BOWMAN: 631 through 38 are in order?

2 MS. EKL: Yes.

3 MR. BOWMAN: I'm going to place those at the top under  
4 the 618.

5 WITNESS: Okay. Yeah. The 5 looked like an 8. All  
6 right.

7 Q. All right. All right. Mr. Beaman, by looking at this  
8 particular site of document, are you able to determine, at least,  
9 generally when this letter was written from you to Jennifer  
10 Lockmiller?

11 MR. BOWMAN: So you're at -- I'm sorry. You're asking  
12 now about 631 through 630 --

13 MS. EKL: Right.

14 MR. BOWMAN: -- 38?

15 MS. EKL: I'll let you know if I'm switching, but for  
16 right now we're just referring to that stack of documents.

17 MR. BOWMAN: Thank you.

18 A. This would be during August of '92, because again it  
19 references that I wrote during August of '92. Well, during --  
20 during 1992, during the summer at some point. I think, I wrote  
21 that song while I was home from school, during the summer  
22 sometime.

23 Q. Could you read just the first two sentences of this  
24 document, including the -- the introductory?

C03690

25 A. Okay. Babe, I think about you constantly. I don't

209

1 sleep, I don't do anything but work, and think about you, and  
2 write songs.

3 Q. What portion of the document is the portion you just  
4 referred to that is the song that you wrote?

5 A. I don't think it contained the lyrics. I don't --  
6 well, I'll have to look for sure, but it references it in the -- I  
7 think, the next sentence after what you had me read.

8 Q. Could you read the portion you're referring to?

9 A. I'm surprised I managed to get my mind off of you long  
10 enough to write "Elegy" for my grandfather.

11 Q. So was Elegy a song that you wrote during that summer  
12 of 1992?

4:21:56 13 A. Yes.

14 Q. Okay. And so that's how you're able to put a general  
15 date -- time frame on these -- on this particular letter?

16 A. Yes.

17 Q. Okay. Referring -- if you could look at the second  
18 page of that document, which is page 632. At the top, there's a  
19 statement in here that says -- if you could read that first  
20 sentence since it's your handwriting?

21 A. The fragment of the sentence there at the top?

22 Q. The first full sentence starting, when.

23 A. Okay.

24 Q. When I say.

25 A. When I say good night to you, I want you to kiss me

C03691

210

1 good night whether or not Jon, or Slush, or Bubba is watching.

2 Q. Who are you referring to when you say, Jon?

3 A. I believe that -- that would have reference John

4 Murray.

5 Q. And who is Slush?

6 A. What was his name? I can't think of his name off the

7 top of my head. It may be able to figure it out at some point,

8 but he was a -- he was a fellow student at Wesleyan. He was a

9 mutual friend of Jennifer's and mine. And when Jennifer and I

10 started dating, he was upset with us because he had confided in me

11 that he had affections for her and he felt that I broke the -- the

12 man code.

13 Q. And you broke the man code by going after Jennifer?

14 A. By pursuing her when I knew that he was interested in

15 her, yes.

16 Q. Okay. And I assume, correct me if I'm wrong, Bubba

17 refers to Stacy Gates --

18 A. Yes.

19 Q. -- who we talked about earlier? Okay. What -- what

20 was the concern in terms of, why were you talking about Jon, Slush

21 or Bubba watching?

22 A. Recognizing that this was a long time ago. I -- I

23 believe there -- there was a -- she had issues with public display

24 of affection sometimes. And -- but generally, it -- it was

25 something she didn't want to do around -- or I felt that it was

C03692

211

1 something she didn't want to do around her male friends.

2 Q. Did you ever have any conversations with her about not  
3 wanting to be affectionate in front of her male friends?

4:24:16

4 A. I would believe so.

5 Q. Do you recall anything about those conversations?

6 A. I don't remember specifics.

7 Q. We've already talked about how she had some intimate  
8 relations with both Murray and, to your belief, with Stacy Gates,  
9 correct? With Bubba?

10 A. I believe she may have.

11 Q. Okay. Did you have any reason to believe that she had  
12 had intimate relations with Slush?

13 A. Not during our relationship.

14 Q. Did you believe that she had, prior to your  
15 relationship?

16 A. Yes.

17 Q. If I could direct your attention down to the next  
18 paragraph, the part that starts, I want to if you could read that  
19 sentence.

20 A. I want you to let me help you faith things so you  
21 don't have to --

22 Q. No, I'm sorry. Bef -- before that.

23 A. Oh.

24 Q. Where it says, I want to get high.

C03693

25 A. Wait. Is that --

212

1 Q. So see, strength?

2 A. Okay. Yes. Okay. Okay.

3 Q. All right. Could you read that sentence, please?

4 A. I wanna get high with you or drop with you, and have  
5 you include me in what's going on in your trip.

6 Q. And was that a reference to the time that the two of  
7 you would do acid together?

8 A. Well, this time we may have done it together once or  
9 twice. And there may have been some part of that experience where  
10 she was wanting to kind of go off on her own. I don't -- I don't  
11 remember specifically, but I think she tended to chase rainbows in  
12 that kind of situation.

13 Q. So she would trip, like bas -- basically have  
14 hallucinations in -- in connection with the drug experience?

15 A. I don't know whether she had hallucinations.

16 Hallucinations are -- are not --

17 MR. BOWMAN: There's a foundational issue here.

18 MS. EKL: Rainbows and lephrecuans, I don't know.

19 WITNESS: Well --

20 MR. BOWMAN: I suppose I --

21 Q. What are you referencing? Let's ask that question.  
22 When you say trip?

23 A. Being allegorical when I say, chase rainbows. And  
24 that's probably something I should make clear. It -- I think

25 Jennifer's tendency was to -- to trip by engaging in the wonder of

C03694

213

1 what was around her and not thinking too much about what other  
2 people were doing. And I suppose I felt that that made us more  
3 separate during those times.

4 Q. And when you say during those times you're talking  
5 about the times when you would get high or you would drop acid?

6 A. I would guess particularly with acid, but I -- I don't  
7 remember if -- I don't remember any times when smoking marijuana  
8 caused that kind of separation, no.

9 Q. Turning to the page that's marked 635.

4:27:45 10 A. Okay.

11 Q. If you could read the paragraph that says, I'm glad  
12 you felt strong enough with me. It's the second paragraph.

13 A. I'm glad you felt strong enough with me to tell me  
14 about what you smoked with Jon. I don't like it, but I'll accept  
15 it as part of the way you are. But if that shit ever hurts you,  
16 I'll cry a thousand tears for each brain cell you lose.

17 Q. What were you talking about in that paragraph?

18 A. It sounds like probably, crack.

19 Q. Had you known Jennifer to do crack on any other  
20 occasions?

21 A. I had never seen her do crack.

22 Q. When you say Jon, who are you referring to there?

23 A. That's probably John Murray as well, but I can't say  
24 for sure. I -- I think so.

25 Q. Were -- was there any other John, that you're aware

C03695

1 of, that she might have been doing drugs with, back in 1992, that  
2 you could have been referencing?

3 A. Well, it could have been Jon -- it might have been Jon  
4 Reevis. Actually, now that -- now that I'm thinking about it, it  
5 might have been more likely to be Jon Reevis.

6 Q. Why do you think it was more likely that it was Jon  
7 Reevis?

8 A. Because I -- I know that he did smoke crack.

9 Q. That Jon Reevis smoked crack?

10 A. Yes. With John Murray, I know that he used harder  
11 drugs than what I saw him with, but I wasn't always privy to  
12 exactly what they were.

13 Q. You didn't have any knowledge of John Murray doing  
14 crack, correct?

15 A. Not directly, no.

16 Q. Did you have any indirect knowledge of him doing  
17 crack?

18 A. I had direct -- indirect knowledge that he used other  
19 drugs besides marijuana and LSD.

20 Q. Okay. But I just meant specifically crack, you hadn't

21 --

22 A. No, no.

23 Q. All right. And then turning to the paged marked 637.

24 A. Okay.

25 Q. If you could read the paragraph -- or the -- from the

C03696

1 top of the page down to, I could really.

2 A. Okay. I love you! -More passionately than Romeo did

3 Juliet. -More hopelessly than Ophelia did Hamlet. -More

4 vengefully than did Medea, Jason -- Medea, Jason. (Don't worry, I

5 won't kill anybody, I don't believe in that.) I do onto others as

6 i would have them do onto me (from now on) That's why I love

7 you...That's why I need you...I could really grow up for you.

8 Q. Is it fair to say that, this was during -- you wrote

9 this during a time period where you did feel very passionately

10 about Jennifer Lockmiller?

11 A. Yes, I did feel very passionately about her.

12 Q. And you were in love with her at that point in time?

13 A. Yes, I was.

14 Q. And at that same point, you were also aware of the

15 fact that she had a number of other -- or at least -- at least

16 some other guys in her life that -- that also were, at least,

17 attracted to her if she -- if not her attracted to them?

18 A. Competition, yes.

19 Q. Okay. Specifically, you refer to Medea and Jason, is

20 that -- what -- what do you mean by that?

21 A. I think I was just referencing passionate classical

22 plays to impress a girl.

23 Q. Okay. And what's your understanding about the story

24 behind -- or the mythology behind Medea and Jason?

25 A. You know, now? Many years later, I don't -- I -- I

C03697

216

1 know we produced the play Medea at Wesleyan at one point. And I  
2 -- I -- about all I can remember about Medea now is that -- I  
3 believe, it was a Greek tragedy. And I believe, she killed her  
4 children and then killed herself or something like that. Maybe  
5 she killed Jason, I can't remember.

6 MR. BOWMAN: It's not a -- it's not a test.

7 Q. Do you recall it to be basically, a love triangle type  
8 situation where Jason cheated on her and then she killed Jason?

4:31:57

9 A. That's possible. I -- I don't remember the play that  
10 well.

11 Q. And you mention that Medea was a play that you  
12 actually helped produce?

13 A. Yeah, I don't remember what posi -- production  
14 position I may have had for that show, but I was involved, at the  
15 very least, in the construction of the scenery.

16 MS. EKL: Okay. Do you have a --

17 WITNESS: I'm sorry. Right after this letter, can I  
18 go to the bathroom again?

19 MS. EKL: Of course. I'm just going to show you this  
20 real quick. Can we mark this as Exhibit Number --

21 RECORDER: 4.

22 MS. EKL: -- 4.

23 WITNESS: It's a program?

24 Q. Exhibit. Showing you what's been marked Deposition

C03698

25 Exhibit Number 4. Do you recognize this?

217

1 A. It looks like a -- a play bill for Medea from Illinois  
2 Wesleyan University.

3 Q. Can you tell from looking at this play bill, first of  
4 all, when it was that the play Medea came through Illinois  
5 Wesleyan?

6 A. I'm looking for a date here. Okay. Well Elizabeth  
7 Dwyer was there. She was playing Medea, if I remember correctly.  
8 She was, at least a year ahead of me, if I remember correctly.

9 Q. And perhaps if I direct you to page 416, it might help  
10 you.

11 A. Okay. Thank you. 1992. Summer Theatre, 1992.

12 Q. At the time that you wrote the letter that we just  
13 discussed, to Jennifer Lockmiller, had the Medea play already been  
14 produced by Illi -- Illinois Wesleyan?

15 A. Yes, that would have been -- I would have written that  
16 to her while I was in Rockford in August, and it would have been  
17 after the season had concluded.

18 Q. Okay. From looking at this play bill, can you deter  
19 -- or this program, can you determine what your role or position  
20 was in the production of Medea?

21 A. Assistant scene designer.

22 Q. All right. You can put that aside. You can set it  
23 here. Thank you. All right. The next -- you can set that whole  
24 letter aside.

25 A. Okay.

C03699

218

1 Q. Okay. I'm just trying to get these up.

2 WITNESS: Can I go to the bathroom now?

3 MS. EKL: Yes. I'm sorry. Yes.

4 WITNESS: I will be very quick. I'm very sorry.

5 RECORDER: Off the record, 4:27.

6 (Off the record)

7 RECORDER: Okay. We're getting ready to go back on.

8 And we are back on at 4:33.

9 Q. All right. Now, I'm going to show you the page that's  
10 marked 629 at the bottom. And we're back on Deposition Exhibit  
11 Number 2 for the record. Do you recognize this as another letter  
12 -- or another document that you wrote and gave to Jen?

4:35:16 13 A. It appears to be something that I gave to Jen, yes.

14 Q. Okay. Does it appear to be complete or is it missing  
15 a page?

16 A. I wouldn't -- I can't say it's missing a page,  
17 necessarily, but it does not contain some kind of introduction  
18 like, Dear Jennifer.

19 Q. Okay. At the top of this document, you quote a song,  
20 is that -- is that fair to say? "Still Be Around" by Uncle  
21 Tupelo?

22 A. Yes.

23 Q. Okay. In the last paragraph of this page, you say you  
24 were -- well, if you could read the first sentence of the last  
25 paragraph of this page. Maybe the whole paragraph then.

C03700

219

1 A. The written paragraph that is not song lyrics?

2 Q. Correct.

3 A. Okay. If you want me to be your NBF, you'll have to  
4 accept that I'll always love you. And you'll have to understand,  
5 and deal with my misconceptions, faults, and fears. I think  
6 (insecurity, etc.) You're not off the hook, it doesn't work that  
7 way. I'll always be here for you. I think, love, Alan.

8 Q. Okay. Is it fair to say, by virtue of the fact that  
9 you're referencing NBF, that this was something that was written  
10 to her -- this is one of the letters that was written to her in 9  
11 -- the summer of 1993?

12 A. Yes.

13 Q. Okay. There is a -- there are several different  
14 paragraphs in here, aside from that first one, where you appear to  
15 be quoting different -- making different literary or song lyric  
16 references, is that fair to say?

17 A. All of this up here you mean?

18 Q. And above it, are there other ones besides just the  
19 first one regarding Uncle Tupelo?

20 A. Above it, the -- everything about the line is a song  
21 by Uncle Tupelo.

22 Q. Okay.

4:36:51 23 A. Yes.

24 Q. Including the paragraph directly above that? Above  
25 the bottom paragraph?

C03701

220

1 A. Yes.

2 Q. Okay. Could you read those song lyrics?

3 A. The whole thing?

4 Q. From, walked and breathed.

5 A. Okay. Okay. Walked and breathed many a cancerous

6 mile. with a battle in eyes, too slow to beat the coffin. they

7 won't tell it on the TV. they can't say it on the radio. Paint,

8 and move it off the shelf and into our minds. till you can't tell

9 the truth when it's right in front of your eyes.

10 Q. What was the purpose in you including those particular

11 song lyrics in this letter to Jennifer?

12 A. I -- I sent her the whole song, that's part of the

13 song.

14 Q. So the lyrics above it are all part of the same song,

15 is that what you're saying?

16 A. That's correct.

17 Q. Okay. Well, what was the purpose of sending her this

18 particular song? Not just those lyrics in the song.

19 A. The song is about -- I really can't say why I sent it

20 to her, honestly, and specifically, I don't remember why I chose

21 to send her this particular song.

22 Q. And what was your understanding about the meaning

23 behind the song "Still Be Around" by Uncle Tupelo?

24 A. At the time, I suppose, I would say that I believed it

25 was a song about people being there for each other or -- or a

C03702

221

1 person wondering whether people would be there for each other down  
2 the road.

3 Q. Okay. And so was that how you were feeling at that  
4 time when you sent this to Jennifer?

4:38:45

5 A. I would say that's a -- a fair characterization, yes.

6 Q. Go ahead. I'll just put this stack in front of you if  
7 you just want to flip it over after we get done, and we'll keep  
8 the two stacks separate. All right. Now, showing you a group of  
9 pages that you put together, where are marked 646, 647 and 648.  
10 Do these three pages appear to be complete or is it -- or do you  
11 think that they're perhaps missing an introduct -- an  
12 introduction?

13 A. It's possible it's missing an introductory -- an  
14 introduction. I -- I can't say for sure.

15 Q. Okay. Could you repeat the first portion of that  
16 before the -- from the beginning line until it says, Damned if I  
17 do?

18 A. Okay. I can't bear any longer to stare into your eyes  
19 to see the borage of countless past lovers of your life. I cannot  
20 look at you, if I cannot touch you.

21 Q. Is that a song lyric or is that your words to her?

22 A. I don't believe it's a song lyric.

23 Q. When was it that you sent or prepared this letter and  
24 sent it -- gave it to her?

25 A. From looking at that paragraph where it says, After

C03703

1 all, it was you who said you didn't want a commitment, I believe  
2 this would have been from August of 1992.

3 Q. Let me have you look at the second page, see if this  
4 helps maybe date it a little bit better. If you look at the page  
5 marked 6 -- page 647.

6 A. Okay. Oh my.

7 Q. If you could go ahead and read that whole first big  
8 paragraph there.

9 A. Okay. When I'm -- when I'm around you I feel like  
10 falling apart, and I can't handle that anymore. If I thought that  
11 things would ever change with "US", it might make it easier. Your  
12 phrase NBF is just as -- just a sign to me of my failure to be  
13 good enough for you. So that tells me that perhaps I'm wrong  
14 about when it was.

15 Q. Okay. And based on that statement, does that lead you  
16 to believe that this letter was written sometime in the summer of  
17 1993?

18 A. Yes.

19 Q. Okay. If you could continue reading after where you  
20 said, would ever change with "US." If you could keep reading that  
21 full -- full first paragraph. Starting with, your phrase.

22 A. Your phrase NBF is just a sign to me of my failure to  
23 be good enough for you, and your constant reminding me is a living  
24 hell. I want you back and I'll sacrifice my pride to get you  
25 back, but if I can't have you back, then pride is ALL I HAVE. So

C03704

223

1 don't do me any favors, just do what you want to do. And if I  
2 can't convince you of my love, and we can't get back together to  
3 form a basic trust, then get the f out of my life.

4 Q. Reading this, do you recall now the context in which  
5 your wrote these words to Jennifer?

6 A. This was probably written around the time when we were  
7 broken up and she was coming over and hanging out with me and  
8 Michael Swaine, and running the bases.

9 Q. And this was a time when you thought that there was  
10 something going on with her and Michael Swaine, but she was trying  
11 to be friends with you, having -- calling you her new best friend,  
12 correct?

4:42:23

13 A. Yes.

14 Q. If you could turn to the next page, 648.

15 A. Okay.

16 Q. And go ahead and just read -- let's start with the  
17 first -- the first paragraph?

18 A. The beginning of the page --

19 Q. Oh, you know, actually, I'm sorry. Just why don't we  
20 start with the third -- the third paragraph, and why don't you  
21 read the whole thing. It says, I can't deny, I think.

22 A. That is a song lyric from a song that I wrote.

23 Q. Okay. Can you -- can read that, just so it's clear?

24 A. I can't deny you, but I have to, to love you. so  
25 don't you go marking off grades. you say it's no contest, but I

C03705

1 can't compete with a wild eyed passion for play.

2 Q. When did you write that song?

3 A. I wrote that song actually in -- sometime during the

4 school year -- beginning of the school year of 1992 to 1993.

5 Q. And did you write that -- what was the purpose of

6 writing that song?

4:43:20

7 A. It was about my relationship with Jennifer.

8 Q. Had you in the past, back earlier closer in time to

9 when you wrote the song, had you given her the -- the song lyrics

10 that -- at that time?

11 A. She had -- she had heard it before.

12 Q. Okay. That was a better way of saying it. Thank you.

13 Could you read the next paragraph that starts, I will love you?

14 A. I will love until the day that the breath of life

15 ceases to whisp through my aching body, which aches for your

16 warmth. That which I can never feel again. I will hold my memory

17 of you dearest to my heart, but at the touch of another woman I

18 will shrink away in sorrow and fear wishing she were you.

19 Q. Is that something that you wrote or is that a quote

20 from something?

21 A. I don't think it's a quote.

22 Q. And does that fairly characterize how you were feeling

23 at that time about Jennifer?

24 A. It may have been again, over the top, trying to be

25 impressive, but it's -- it -- I don't think I would have written

C03706

225

1 that completely dishonestly.

2 Q. Okay. And then if you could read the -- the last line  
3 of the -- of the letter.

4 A. "The rest is silence" -Hamlet.

5 Q. Was that a line that you were familiar with from  
6 Hamlet?

4:44:41 7 A. Yes.

8 Q. Okay. And in what part of the play is -- is that  
9 sentence uttered?

10 A. I don't remember specifically where it's uttered in  
11 the play.

12 MS. EKL: All right. I'm going to stack that.

13 MS. BARTON: This isn't yours.

14 MS. EKL: Okay.

15 WITNESS: Does this go in here?

16 MS. EKL: Oh, I'm sorry. I keep doing that. Yours  
17 goes there, and mine goes here.

18 WITNESS: Okay.

19 MS. EKL: Yeah.

20 WITNESS: I don't even know if they were right side up  
21 or --

22 MS. EKL: We can -- we can get the sides right after.

23 WITNESS: Okay.

C03707

24 Q. Okay. Showing you now 644 and 645. If you could --  
25 this is another two page letter that you wrote to Jennifer,

226

1 correct?

2 A. It appears to be, yes.

3 Q. Okay. And if you could just take a quick look at it  
4 and see if there's anything in there that can help you put a time  
5 frame on when this was written.

6 A. I -- I don't -- I'm not seeing anything that would  
7 identify a particular time period on this one.

8 Q. Okay. Do you see in the middle of that page where it  
9 says, I have a short temper, I need your help with that? Middle  
10 of the first page?

11 A. Yes.

12 Q. Okay. What were you referring to there?

13 A. I really don't know. I don't remember.

14 Q. It goes on to say and correct me if I'm wrong, I come  
15 down from a trip, and I feel so guilty, and stupid, and  
16 irresponsible. It seems like all there is to do in Rockford is  
17 get high. I'm sorry is that --

18 A. Yes.

19 Q. Is that accurate? Okay. Does that indicate to you  
20 that this was another letter that was written to you -- written  
21 from you to Jennifer during a time period when you were in  
22 Rockford?

23 A. It could have been from a time period I was in  
24 Rockford. It's -- that's possible.

25 Q. Okay. And it was during a time period when you were

C03708

227

1 dropping acid?

2 A. It's -- it's possible.

3 Q. And that's -- that's based on your statement, I come

4 down from a trip, correct?

5 A. Again, it's possible. I -- I -- that's what it

6 appears to be.

7 Q. Okay. Is there anything else that you can think of,

8 as you sit here, that you could have been referring to?

9 A. Well, coming down from a trip, would be a reference to

10 LSD. It doesn't necessarily mean that I'm saying that during the

11 time I wrote this letter that I was using LSD. But it -- are you

12 asking for a time period reference still?

13 Q. No, I'm just asking if that's what that refers to. So

14 if you -- if you don't have a better recollection than that,

15 that's fine.

16 A. I think it could.

17 Q. Okay. Okay. That's fine. If you'd go ahead and turn

18 that one over. Now, I'm going to ask you to look at pages 639,

19 640 and 641. Those were the three you put together. Was this

20 again, another letter that you wrote to Jen?

21 A. It appears to be.

22 Q. At the bottom of the first page, you refer to my

23 sophomore year, those "friends" -- those "friends" were gone.

24 Does that reference to sophomore year help you reference --

C03709

25 A. At the bottom of the page?

1 Q. I'm sorry. At the bottom of the page, does that help  
2 you put in time context, when this letter was written?

3 A. Well, it looks -- it looks like it was after my  
4 sophomore year from that statement. I'm looking for anything else  
5 that gives me a more specific.

6 Q. So that -- would that have been in the summer of 1992  
7 or 1993?

8 A. It's --

9 Q. Or sometime, I shouldn't say, necessarily it's summer.  
10 Would it have been summer?

11 A. I can't narrow it down so far as any later. Well, I  
12 can't say -- it doesn't look like it was any time earlier than my  
13 -- than the summer after my sophomore year. Beyond that, I don't  
14 know.

15 Q. What year was that?

16 A. 90 -- '91-'92.

17 Q. Okay. If you could read on the second page, page 640.  
18 The bottom paragraph, and then onto the top of the next page.  
19 Where it starts, then I met you.

20 A. Then I met you. I felt comfortable with you. I'm --  
21 I'm sorry. Do you want me to read this out loud?

22 Q. Yes, please.

23 A. I felt comfortable with you. I could be myself, and  
24 when you laughed, it was with me. You seemed to know me, and you  
25 needed me, and that was the first time I had to be strong. As I

C03710

1 came to realize that I needed you, I became insecure, and afraid  
2 of losing you. Jealously became all too common. Then when I went  
3 back to school, I felt that you were trying to return to your  
4 past, that you didn't need me or love me. I was walking on eggs,  
5 and I thought you didn't love me anymore. So I ran away. But  
6 when I discovered that you did need me I tried to run to your  
7 rescue, but the damage had been done. You resented me, and what I  
8 had done, as well you should have. So I returned to being the  
9 weak and childish "pup" because it thought I could please you, or  
10 make you laugh.

11 Q. What were you referring to in that portion of the  
12 letter?

13 A. I think, I was referring to the period of time when  
14 she and I were on the outs, because I broke up with her thinking  
15 that she was acting -- being crazy, and I thought I might date  
16 Meredith, and then I found out she had had a miscarriage, or  
17 that's what she told me. And -- and so we got back together.

18 Q. You're referring to Jennifer having had a miscarriage?

19 A. Yes.

20 Q. And when did that take place?

21 A. That took place early in the fall semester of 1992.

22 Q. So then this letter would have been written sometime  
23 after?

24 A. Sometime after the fall of 1992.

25 Q. Okay. And is it fair to say that, at least, as you

C03711

230

1 characterize yourself in this letter, that during, at least, that  
2 point in your relationship, jealousy wasn't just a one way street  
3 on Jennifer's behalf, that you also had times when you were  
4 jealous of her and had insecurities in relation to her?

4:53:03

5 A. Yes.

6 Q. If you could look at page 643. It looks like there's  
7 a comment at the top and the very -- in the very first word is cut  
8 off, but does this appear to be a one page letter from you to Jen?

9 A. It does.

10 Q. Okay. In here you say, could you read the first --  
11 the first two -- three lines?

12 A. I love you. I'm sorry that I've been such an ass  
13 lately, it seems like every time i don't get my way -- I can't say  
14 for sure what that says -- i freak out and so something stupid.

15 Q. And go ahead and read the next line as well.

16 A. Like with Brian, then the phone off the -- I'm not  
17 sure what that says. Phone off the -- maybe -- maybe, hook, and  
18 then over the weekend in Chicago. I know that it's a problem, and  
19 I'm really trying to mellow out about things like that. Do you  
20 want me to keep going?

21 Q. Just to the end of that sentence.

22 A. But its hard for me because I always expect to get the  
23 run-around.

24 Q. Okay. Does that help date this particular letter, the  
25 reference to phone off the, perhaps, hook incident with Brian and

C03712

231

1 then a weekend in Chicago?

2 A. I'm trying to remember what the phone off the hook

3 thing is. And it's not coming back to me.

4 Q. The over the weekend in Chicago reference, is that a

5 reference to your brother's wedding?

6 A. That might have been.

7 Q. Okay. But in this particular letter, you're

8 referencing you freaking out, correct?

4:55:06 9 A. Yes.

10 Q. Okay. What -- what part of that weekend did you freak

11 out and do something stupid?

12 A. I really don't remember.

13 Q. I don't know if you'll be able to read it, but just

14 because it's poorly written -- or -- or poorly copied. If you

15 could just read the next three sentences, just so we know what

16 they say, 'cause they're -- you might be able to decipher it

17 better than we can.

18 A. I know that you "give it" to me straight, and I just

19 need to accept that. Needless to say --

20 Q. Does it say --

21 A. Something about --

22 Q. This whole Bubba --

23 A. -- Bubba, I think.

24 Q. -- thing?

25 A. Huh?

C03713

232

1 Q. Does it say, This whole Bubba thing has?

2 A. Maybe -- maybe it's -- I -- I really can't say for

3 sure.

4 Q. Okay.

5 A. But it could be. Has got me freaked out more than you

6 could possible imagine. Please understand that I'm doing the best

7 i can.

8 Q. What Bubba thing are you referring to in that letter?

9 A. That -- I'm not sure, 'cause it -- I know there were

10 times when she would allow him to stay there with her briefly, but

11 I don't -- I don't really have a time frame on -- as to -- to

12 really remember.

13 Q. Are you referring to stay at her house?

14 A. Yeah, but I don't know if that's what this is even

15 referring to.

16 Q. All right. I'm showing you now pages 625 and 626. If

17 you could take a look at those, is that another two pages that you

18 sent to Jennifer?

19 A. Oh, is this something I sent to Jennifer?

20 Q. Yeah.

21 A. It -- it looks like it is.

22 Q. Okay. And based on the -- is that a song lyric that's

23 at the top by the "black rows"?

24 A. It looks like, it says the "Black rows", that --

25 that's not one that I'm remembering as well so I would probably

C03714

233

1 have to hear it.

2 Q. Is there anything in this letter than helps you date

3 when you gave this to Jennifer?

4 A. I see more song lyrics here. I really don't remember

5 when this was.

6 Q. Taking a look at page 621. Oh wait. I'm sorry. All

7 right. 621, 622 and 623. Do you recognize those pages?

4:59:56

8 A. Yes.

9 Q. All right. Again, these are three pages that you

10 believe you wrote to Jennifer?

11 A. I believe so, yes.

12 Q. Okay. The top of the first page, you refer to Slush.

13 Who is Slush?

14 A. You've asked me before --

15 Q. Oh.

16 A. -- about Slush.

17 Q. Sorry.

18 A. And I -- I -- I know who he is. I can't remember his

19 real name. He never went by it, so --

20 Q. Is there anything more identifiable about Slush that

21 you can tell us to help us figure out who he is? Is he a roommate

22 of someone's? Or someone you worked with? How did you know

23 Slush?

24 A. He -- he was a Figi. He was not the prototypical

25 Figi. He was not a big football player.

C03715

234

1 MR. BOWMAN: A Figi?

2 WITNESS: It was a fraternity on campus.

3 MR. BOWMAN: Ah.

4 MS. EKL: What's a Figi?

5 MS. BARTON: Phi gamma --

6 MS. EKL: Oh, I knew --

7 WITNESS: Yeah, I don't remember exactly what Figi

8 stood for.

9 MS. BARTON: It's phi, gamma something.

10 WITNESS: Was it phi gamma something?

11 MS. EKL: They all had nicknames.

12 MS. BARTON: We had Figis.

13 A. But he was Figi and he was a mutual friend of Jen's

14 and mine. I'm trying to think of anything else.

15 Q. Is he a person that testified in your trial?

16 A. I don't think so. But I'm not sure.

17 Q. Okay. At the bottom of 621, you state, I refuse to be

18 another Bubba, and tell you how to be, but I do love you as friend

19 and lover, and I love you enough that I would be happy being your

20 friend. Is that a fair reading of what you wrote?

5:01:37 21 A. Yes.

22 Q. Okay. What did you mean by, refuse to be another

23 Bubba?

24 A. I'm not sure. Maybe it was -- I really don't know.

25 Q. Is there anything about this document that allows you

C03716

235

1 to date when it was that you gave this to Jennifer?

2 A. Well, the reference to conversations about Bubba up  
3 here at the top, tells me it's from before Bubba was going to move  
4 into the area or perhaps before he was going to come visit. I  
5 know that when we first got together in the summer of '92, she  
6 talked about breaking it off with me because Bubba was going to be  
7 around. And I think he was going to stay there with her for a  
8 little while.

9 Q. Other than that, were there any other occasions when  
10 Jennifer told you that she wanted to break things off so that she  
11 could be with Bubba?

12 A. I don't specifically remember any other times when she  
13 wanted to break up with me to be with Bubba.

14 Q. All right. You can set that one aside. Now,  
15 referring to -- this one's a little bit out of order here, 624. I  
16 think, this is 627, and the MCC number is 5445. Give me a second  
17 --

18 A. Oh, we're on a different document now?

19 MS. BARTON: Yeah.

20 Q. I'll give it to you in a second --

21 A. Okay.

22 Q. -- as soon as I read it to them.

23 MR. BOWMAN: 5445?

24 MS. EKL: Yes.

25 MR. BOWMAN: 627 is 5445?

C03717

1 MS. EKL: Okay. Right. And then 619 and 620.

2 MR. BOWMAN: These are all one document?

3 MS. EKL: Yes. That's what I'm showing to him now.

4 Q. These are another four pages of that exhibit that you

5 put together, is that correct? Or do they -- or did two of 'em

6 end up getting smushed together? Two separate ones, okay.

7 A. They appear to be. I -- I -- yeah.

8 Q. Okay.

9 A. There's two different signatures.

10 Q. Okay. 624 and 627, again is this another two page

11 letter that you sent to Jennifer?

12 A. This looks like something that I wrote to Jennifer.

13 Q. Okay. Does it appear to be complete to you? And can

14 you tell if it's complete?

15 A. It does not have -- well, it's cut off at the top and

16 I don't know whether it contains an introduction or not.

17 Q. Okay. Is it fair to say that this document contains

18 -- or actually let me ask you this. Does it contain some song

19 lyrics or all -- or are all of the words in her your words?

20 A. It contains song lyrics.

21 Q. Okay. Based on what's contained in this document, are

22 you able to put a time frame or a date on those -- on those pages?

23 A. Well, my interest in Pearl Jam, primarily, was from

24 the summer of '92, if I remember correctly.

25 Q. What's the name of the song that you quoted here?

C03718

237

1 A. I believe it's called, Black

2 Q. And what was the purpose of quoting the song Black to

3 Jennifer?

4 A. I really don't remember why I quoted this song.

5 Q. Do you know or did you have an understanding as to the

6 meaning behind the word -- or the song Black, back when you wrote

7 this?

8 A. No, I didn't have a -- I didn't have a -- you mean the

9 meaning behind why it was written?

10 Q. Right. Right.

11 A. No.

12 Q. Okay. So is it fair to say that you quoted it to

13 Jennifer based on the words in the song fitting some emotion that

14 you were feeling at the time?

15 A. I really don't know. I really don't remember.

16 Q. Okay. Fair enough. If you could now look at the

17 other document which is pages 619 and 620. Again, is this another

18 two page letter that you sent to Jennifer?

19 A. This appears to be a Billy Joel song.

20 Q. And is the entire thing, other than the first two

21 lines, is that a Billy Joel song?

22 A. I think after it says, Bill Joel, is -- is me.

23 Q. And based on the -- the line at the end of the -- of

24 the page, it says, I think this fits with us, and -- and it's

25 circled.

003719

238

1 A. Right.

2 Q. Is it a fair -- fair to say that you felt, at that

3 time, these words fit your relationship with Jennifer?

5:07:10

4 A. I think so.

5 Q. Okay. Do you recall when this was written?

6 A. I really don't.

7 Q. Is there anything about it that help you put a general

8 time frame on it?

9 A. I'm looking. I don't see anything that can date this

10 for me.

11 Q. Okay. Showing you page 630. Do you recognize that

12 one page document?

13 MR. BOWMAN: I'm sorry. This is 630?

14 MS. EKL: 630.

15 A. Referencing the presidential election there, who

16 should be the next president, she was -- she loved Bill Clinton.

17 She was a Bill Clinton fan, and so that would have been -- when

18 was that election?

19 MR. BOWMAN: '92.

20 MR. DiCIANNI: '92.

21 A. All right. So --

22 MR. BOWMAN: So stipulated.

23 Q. Could you read the -- the paragraph that's -- the

24 beginning of the paragraph that starts, okay?

25 A. What appears to be the last paragraph?

C03720

239

1 Q. I'm sorry.

2 A. Yes.

3 Q. I meant, can you read the beginning of that last  
4 paragraph?

5 A. Okay. All right. Okay, so I'm a fuckin' asshole.  
6 Sorry, I was going to not quote that directly. But I'm not a  
7 drug. You can't just quit me, then come back, then quit again,  
8 then come back over and over. (Sometimes it happens 3 times a  
9 day.)

10 Q. So is it fair to say that at the time of this letter,  
11 you were already going through that portion of your relationship  
12 that was tumultuous in the sense that it was -- you would fight,  
13 get back together, and fight, and get back together?

14 A. It seems like, yes.

15 Q. Okay.

16 MR. BOWMAN: I -- I know that you want to get through  
17 these -- this exhibit, but we're past 5:00 now, and I -- I sense  
18 that Alan's getting a little tired. Is it just a few more  
19 questions?

20 MS. EKL: It's just -- it's the two, and I only have

21 --

22 MR. BOWMAN: Okay.

23 MS. EKL: -- a couple questions --

24 MR. BOWMAN: Okay. All right.

25 MS. EKL: -- on the one and -- and a couple of the

C03721

240

1 other.

2 MR. BOWMAN: All right.

3 Q. So showing you page 628. Do you recognize that

4 document?

5 A. It looks like a poem that I either wrote or copied.

6 Q. Based on looking at the poem, can you determine

7 whether or not it was one that you actually wrote or one that you

8 quoted from somewhere else?

9 A. Normally, if I quote, I -- I cite the quotation. So I

10 think I wrote it.

5:10:40 11 Q. Do you know when you wrote this?

12 A. Let me read it. This seems like something I would

13 have written earlier on.

14 Q. Meaning sometime back in 1992 at the start of your

15 relationship?

16 A. Probably.

17 Q. All right. And the last one, if you could take a look

18 at page 642. Is this another one page letter that you wrote to

19 Jen?

20 A. It appears to be, yeah.

21 Q. Okay. And if you take a look at this letter, does it

22 appear to be a letter that was written sometime in 1993 after the

23 two of you had been through dating and then friendship and back

24 again? Or the other way around?

25 A. This looks like it would have been after our breakup,

C03722

1 yes.

2 Q. So sometime in 1993?

3 MR. BOWMAN: I'm sorry. What number is that?

4 MS. EKL: It's page 642.

5 MS. BARTON: 642.

6 A. Well, I don't know, 'cause there's no --

7 Q. Let me ask you this. The -- would you say that the

8 happiest or the best part of your relationship with Jennifer

9 Lockmiller was in July of 1992?

10 A. I would say so, yes.

11 Q. Okay. So if this letter in the middle of it refers --

12 says, last July was the happiest time of my life, I hope you - I,

13 and we can return to the way we were then, and through friendship,

14 maybe we can re-discover our identities and our love. Does that

15 indicate to you that it would have been -- this wouldn't have been

16 written during the summer of 1992 but rather in the summer of 1993

17 when you were going through that friendship period?

18 A. Well, it refers to last July twice. Saying we haven't

19 been friends since last July. It might have -- I really -- I

20 really don't remember. I'm looking at it, and I thought maybe it

21 was -- it was a reference to -- when it says, we haven't been

22 friends since last July, I thought I was referring to the July

23 when -- when we broke up, but looking at further context in the

24 letter, it seems like I was referencing the July when we started

25 dating. So that throws off my ability to date it.

C03723

1 Q. Okay. But as far as saying, we haven't been friends  
2 since last July, is it fair to say that from July of 1992 when you  
3 started dating Jennifer Lockmiller, you considered her more than a  
4 friend, you considered her a lover, a girlfriend, and many other  
5 things more than a friend from the sum -- when you started dating  
6 her in July of 1992 until you guys had that incident with Swaine  
7 and -- and tried to be friends or new best -- or you -- she wanted  
8 you to be her new best friend in the summer of 1993?

9 MR. BOWMAN: Object to the form of that question. I  
10 think that's convoluted.

11 A. Okay. That was a pretty long question, and I was  
12 trying to read -- this was while you were asking --

13 Q. Sure.

14 MR. BOWMAN: I -- I think we should take a --

15 MS. EKL: Let me -- but let me finish the last  
16 question.

17 MR. BOWMAN: Okay.

18 MS. EKL: I'm still in the middle of the question.

19 MR. BOWMAN: All right.

20 MS. EKL: And I have no problem with that.

21 MR. BOWMAN: I was just thinking maybe the -- the  
22 questioner and the witness are both tired, but --

23 MS. EKL: He asked me -- he said he was reading.

24 Q. Are you okay with one more question?

25 A. Try again.

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1 Q. Okay. Okay. I'm going to break it down a little bit.

2 You indicated that you were friends with her until the summer of  
3 1992 when you guys began dating in approximately July of 1992,  
4 correct?

5 A. The letter says -- I -- all I can speak to is what the  
6 letter says.

7 Q. I'm not talking about the letter.

8 A. Yeah, I --

9 Q. I'm just --

10 A. I can't really try to interpret it.

11 Q. I know. I'm just breaking down my question without  
12 reference to the letter right now.

13 A. Okay.

14 Q. Is it fair to say that when you first met Jennifer you  
15 were friends with her until you became more than friends with her,  
16 and that was sometime around July of 1992?

17 A. We became more than friends sometime in July of 1992.

18 Q. From July of 1992 until the summer of 1993, would you  
19 agree that you were more than friends, that you dated and became  
20 engaged and were lovers and that you -- you would characterize  
21 yourself as having a relationship with her during that time period  
22 from July of 1992 until, at least, the summer of 1993, as more  
23 than friends?

24 MR. BOWMAN: Well, the summer of 1993 is vague, so  
25 I'll object on that basis.

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1 MS. EKL: And I would clarify, beginning of the summer  
2 of 1993.

3 MR. BOWMAN: Thank you.

4 A. I would say that we were, during that period of time,  
5 either more than friends or not friends at all.

6 Q. Okay.

7 A. Depending on ebb and flow of the relationship.

8 Q. Okay. In the summer of 1993 when things started to  
9 happen between Jennifer and Michael, is it fair to say that that  
10 was the time period that you've already discussed where she wanted  
11 you to be her new best friend and you -- the two of you tried to  
12 work -- tried to become friends again?

13 A. I can't say that there was never a time during that  
14 school year where we didn't discuss trying to be friends again. I  
15 don't remember, specifically. This doesn't make reference to new  
16 best friend. So it doesn't -- it doesn't date it for me.

17 MS. EKL: Okay. That's fair enough. That's all I  
18 have. Not permanently, but that's all I have for tonight. In  
19 that line of questioning, just to be clear. I'm not done.

20 MR. BOWMAN: We're off the record at what time?

21 RECORDER: Every -- anybody want anything else before  
22 I turn the machines off?

23 MR. BOWMAN: No.

24 MS. BARTON: Can we just have the time?

25 MR. BOWMAN: Wait, actually I want to know the elapsed

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1 time?

2 MS. BARTON: Yeah.

3 RECORDER: Oh, five -- five hours and 18 minutes give

4 or take. And we are off the record at 5:15.

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CERTIFICATION

I certify that the foregoing is a correct  
transcript from the record of proceedings  
in the above-entitled matter.

Frank J Wiener

December 21, 2012

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
CENTRAL DIVISION

ALAN BEAMAN, )  
Plaintiff, )  
vs. ) No. 10 CV 1019  
JAMES SOUK, CHARLES REYNARD, )  
TIM FREESMEYER, ROB HOSPELHORN, )  
DAVE WARNER, JOHN BROWN, FRANK )  
ZAYAS, McLEAN COUNTY, ILLINOIS, )  
and TOWN OF NORMAL, ILLINOIS, )  
Defendants. )

The continued videotaped deposition of  
ALAN BEAMAN, called for examination pursuant to  
Notice and the Rules of Civil Procedure for the  
United States District Courts pertaining to the  
taking of depositions, taken before Elizabeth L.  
Vela, a Notary Public within and for the County of  
Cook, State of Illinois, at 140 South Dearborn  
Street, Chicago, Illinois, on the 18th day of  
January, 2013, at the time of 10:08 a.m.

(Proceedings concluded at 6:00 p.m.)

Reported by: Elizabeth L. Vela, CSR

License No.: 084-003650

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McCorkle Litigation Services, Inc.  
Chicago, Illinois (312) 263-0052

003760

## 1 APPEARANCES:

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3 NORTHWESTERN UNIVERSITY SCHOOL OF LAW, by  
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11 Representing the Plaintiff;

12 THE SOTOS LAW FIRM, P.C., by  
13 MS. ELIZABETH EKL,  
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17 Representing the Defendants,  
18 James Souk, Charles Reynard,  
19 John Brown, and McLean County,  
20 Illinois;

21 ANCEL, GLINK, DIAMOND, BUSH,  
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Dave Warner, Frank Zayas, and Town of  
Normal, Illinois.

## 21 ALSO PRESENT:

22 Mr. Ben Dixon, Videographer.  
23  
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I N D E X

WITNESS	EXAMINATION
ALAN BEAMAN	
BY MS. EKL	251
BY MR. DICIANNI	490

E X H I B I T S

NUMBER	MARKED FOR ID
Beaman Deposition Exhibit	
No. 5	308
No. 6	350
No. 7	364
No. 8	381

1 THE VIDEOGRAPHER: Good morning. My name is  
2 Ben Dixon, Certified Legal Video Specialist with  
3 McCorkle Litigation Services, located at 200 North  
4 LaSalle, Suite 2900, Chicago, Illinois 60601.

5 I am the videographer on January 18th,  
6 2013 for the recording of the deposition of  
7 Alan Beaman, being taken at 140 South Dearborn,  
8 Suite 1700, Chicago, Illinois, at the time of  
9 10:08 a.m., in the matter of Alan Beaman,  
10 Plaintiff vs. James Souk, et al., Defendants, filed  
11 in the United States District Court For the  
12 Northern District of Illinois, Central Division,  
13 Case No. 12010 CV 01019.

14 Will counsel please identify themselves  
15 for the record, beginning with plaintiff's counsel.

16 MR. BOWMAN: My name is Locke Bowman. I  
17 represent Mr. Beaman.

18 MR. SHAPIRO: David Shapiro for Mr. Beaman.

19 MS. EKL: Elizabeth Ekl on behalf of the McLean  
20 County defendants.

21 MR. DICIANNI: Thomas Dicianni for the Town  
22 Normal defendants.

23 THE VIDEOGRAPHER: Will the reporter please  
24 identify herself and swear in the witness?

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C03763

1 THE REPORTER: My name is Elizabeth Vela.

2 (Witness sworn.)

3 ALAN BEAMAN,

4 called as a witness herein, having been first duly

5 sworn, was examined and testified as follows:

6 EXAMINATION

7 BY MS. EKL:

8 Q. Good morning, Mr. Beaman.

9 A. Good morning.

10 Q. At the first part of your deposition that  
11 we took a few weeks ago now, you testified that you  
12 had previously testified before the Grand Jury,  
13 correct?

14 A. Yes.

15 Q. Your testimony before the Grand Jury was  
16 not required by the State's Attorney's Office,  
17 correct?

18 A. Correct.

19 Q. And it was not required by the Normal  
20 Police Department, correct?

21 A. Correct.

22 Q. You made the choice to testify before the  
23 Grand Jury?

24 A. I did.

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APPENDIX 000625

1 Q. Did you know that when you testified that  
2 the Grand Jury's job was to determine whether or  
3 not there was evidence to support an indictment for  
4 you to be prosecuted?

5 A. Yeah, that's the gist of it, I guess, that  
6 I understood.

7 Q. You knew that when you testified, you had  
8 a risk that anything that you said could be used  
9 against you by the Grand Jury in determining  
10 whether or not they would, in fact, find -- or  
11 whether, in fact, they would return an indictment,  
12 correct?

13 A. Yes.

14 Q. Why did you take that risk?

15 A. I believed that if they heard from me that  
16 they would understand that I did not murder  
17 Jennifer and that they would then not hand down an  
18 indictment.

19 Q. Was it important to you to provide details  
20 of your alibi to the Grand Jury?

21 A. It was important for me to answer the  
22 questions that were asked, because that was what  
23 was expected by the Grand Jury.

24 Q. Judge Souk did nothing to prevent you from

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1 doing that, correct?

2 A. To prevent me from testifying?

3 Q. From -- preventing you from testifying to  
4 anything that you wanted to testify to. I'm sorry?

5 A. No.

6 Q. You told the Grand Jury that on Wednesday,  
7 August 25th, you went home after work, got some  
8 cash for -- that your uncle had given you for --  
9 some cash that he had given you in advance for some  
10 work that you were doing for him, as well as a  
11 hundred dollar check your mom wrote you in exchange  
12 for lending her some of your cash, and took the  
13 cash and the check to the bank to deposit it,  
14 correct?

15 MR. BOWMAN: I'm going to -- predictions always  
16 end up being inaccurate.

17 I am going to object on the basis that  
18 there was a transcript of the Grand Jury testimony.  
19 And I don't think that it's fair to -- or probative  
20 to ask the witness to summarize what's available to  
21 all of us in the transcript. And so that's my  
22 objection.

23 BY MS. EKL:

24 Q. Is it correct that that's a summary of

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1 what you told the Grand Jury?

2 A. Can you --

3 MR. BOWMAN: Same objection.

4 THE WITNESS: Can you repeat, please?

5 BY MS. EKL:

6 Q. Sure. You told the Grand Jury that on  
7 Wednesday, August 25th, you went home after work,  
8 got some cash and a check in the amount of a  
9 hundred dollars that your mom had wrote to you, and  
10 that you took that cash and check to the bank to  
11 deposit it, correct?

12 MR. BOWMAN: And so that I don't get in your  
13 way, if I could please have a standing objection to  
14 questions of this nature, which will -- to the  
15 extent they summarize the Grand Jury testimony,  
16 then I'll just preserve that and you can ask your  
17 questions.

18 MS. EKL: Sure.

19 MR. BOWMAN: Thank you.

20 THE WITNESS: To my recollection, that was part  
21 of my testifony -- testimony at the Grand Jury.

22 BY MS. EKL:

23 Q. That was a detail that you forgot to tell  
24 the police when they interviewed you several days

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1 after the murder on August 28th, correct?

2 MR. BOWMAN: Object to the form of the  
3 question. You may answer.

4 THE WITNESS: Can you do it again? I'm sorry.

5 BY MS. EKL:

6 Q. Sure. That was a detail that you forgot  
7 to tell the police when they interviewed you on  
8 August 28th, a few days after the murder, correct?

9 A. Correct.

10 Q. But you were allowed to present that  
11 evidence to the Grand Jury?

12 A. I believe I was asked about it.

13 Q. And you told the Grand Jury about that  
14 fact, correct?

15 A. Yes.

16 Q. Do you still have a recollection in your  
17 mind about your actions on Wednesday, August 25th?

18 A. Somewhat.

19 Q. Where were you working on that particular  
20 day?

21 A. I believe I was working at the Sandy  
22 Hollow Southgate store, my uncle's.

23 Q. What is the address of that Sandy  
24 Hollow --

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1 A. I don't know the address.

2 Q. That's in Rockford?

3 A. That's in Rockford.

4 Q. Okay. What portion of Rockford is  
5 Sandy Hollow located?

6 A. That is on the southeast side.

7 Q. And that was accurate, that you went home  
8 after leaving the Sandy Hollow store to grab cash  
9 and a check to deposit at the bank, correct?

10 A. Yes.

11 Q. And just to be clear, your home was  
12 located at [REDACTED] in Rockford?

13 A. Yes.

14 Q. How long did it take you to get from the  
15 Sandy Hollow store to your home?

16 A. Maybe 15 minutes.

17 Q. What, if anything, do you remember about  
18 what you did when you arrived home?

19 A. I don't have a specific recollection  
20 beyond going home and getting what I needed for the  
21 bank and then going back to the bank.

22 Q. Was anyone home when you arrived there?

23 A. I don't believe anyone was home.

24 Q. And is there anything else other than

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1 grabbing the cash and the check that you can recall  
2 about your actions when you were home after being  
3 at Sandy Hollow?

4 A. No.

5 Q. How long did you stay there before you  
6 left for the bank?

7 A. I don't remember.

8 Q. Did you have a bank account at the Bell  
9 Federal Savings & Loan?

10 A. I did.

11 Q. And where was that bank located?

12 A. It was in Colonial Village.

13 Q. Where's Colonial Village?

14 A. It was a -- it's a mall. It's at Alpine  
15 and Charles. Also -- it's like a five-way  
16 intersection. Alpine, Charles, and Broadway.

17 Q. And is it fair to say that that's in the  
18 east central part of Rockford?

19 A. Roughly.

20 Q. Most of your friends lived on the east  
21 side of Rockford, correct?

22 A. That's true.

23 Q. Who were -- what were the names of some of  
24 your friends that lived on the east side of

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1 Rockford back in 1993?

2 A. Chris Carbone, Mike White, John Luman. I  
3 don't know.

4 Q. Is that all you can think of?

5 A. Well, I suppose we could make a list. I  
6 mean, I -- Ryan Morrison. I don't know. How  
7 thorough do you want me to be here? Do you -- you  
8 know.

9 Q. Did you have friends that you regularly  
10 visited that lived in other parts of Rockford other  
11 than on the east side?

12 A. Did I have friends that I regularly  
13 visited that lived other than the east side?

14 Q. Correct.

15 A. I had friends in my neighborhood that I  
16 sometimes hung out with. Most of my friends were  
17 on the east side, I would say, but --

18 Q. When you drove from [REDACTED] to  
19 Bell Federal, did you drive straight there or did  
20 you make any stops?

21 A. As far as I remember, I drove straight  
22 there.

23 Q. How long did it take you to get to the  
24 bank from your home?

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1 A. I can do it in about 20 minutes.

2 Q. On that particular day, how long did it  
3 take you?

4 A. I couldn't tell you exactly.

5 Q. Is there more than one way to get from  
6 your home at the time, [REDACTED], to  
7 Bell Federal?

8 A. There's any number of ways.

9 Q. What are the different ways?

10 A. Well, primarily, you would take the  
11 bypass. You'd take Route 20 down Meridian to  
12 Route 20 and then around the city so that you don't  
13 have to stop at traffic lights.

14 And then, you could also -- a quick route  
15 through town would be Kilbourn to the Whitman  
16 Street Bridge. And then, that connects to State  
17 Street and Charles Street after 6th Street. And  
18 Charles street leads right down to the mall there.

19 Q. What route did you take to get to the bank  
20 on August 25th?

21 A. To my recollection, I took the bypass.

22 Q. Did you have a normal route that you took  
23 to get to your friends' houses that lived on the  
24 east side of Rockford?

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1           A.    That depended on one part -- what part of  
2 the east side but -- and how far east, as well.

3                    My friend Ryan's house is pretty much  
4 right across the bridge. So I would probably take  
5 Auburn Street to get to his house.

6                    I did have some friends in the Edgewater  
7 neighborhood that were right by the river, still on  
8 the west side but almost on the east side. And  
9 then, I would take country roads to get to Main  
10 Street. And then, I would go to their house that  
11 way.

12                   And if -- pretty much, if they were any  
13 further east of -- or any further east or south of  
14 Ryan's house, I would probably take the bypass.

15           Q.    The friends that you -- well, let me back  
16 up.

17                   During that week that you went to the  
18 bank, you had spent some time visiting friends on  
19 the east side of Rockford, correct?

20           A.    Yeah. During the week? Yes.

21           Q.    Okay. And when you would go to visit  
22 those friends, would you generally take the bypass  
23 route or a route through town?

24           A.    It depended on what else I needed to do,

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1 either if I needed to make a stop on the way there  
2 or if I was somewhere else before then.

3 Q. So assuming you did not have to make a  
4 stop, how would you get to your friends' houses  
5 that you were hanging out with during the week that  
6 you had gone to Bell Federal?

7 MR. BOWMAN: Object to the form of the  
8 question. Foundation.

9 THE WITNESS: Again, there are different  
10 friends and I would have different routes.

11 BY MS. EKL:

12 Q. You were asked in the Grand Jury whether  
13 when you go there -- and I'll -- let me just -- so  
14 that -- I'm anticipating an objection from counsel.

15 MS. EKL: Let me first ask, did you bring, by  
16 any chance, your copies of the Grand Jury  
17 transcripts?

18 MR. BOWMAN: I did, yes.

19 MS. EKL: I have an extra copy of the excerpt  
20 if -- I don't know. Do you want -- just the  
21 portions I'm going to ask about so --

22 MR. BOWMAN: I think the Grand Jury testimony  
23 was marked as Exhibit 3 last time?

24 MS. EKL: Correct.

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1 MR. BOWMAN: Okay.

2 MS. EKL: Correct.

3 BY MS. EKL:

4 Q. During the Grand Jury -- and I'm directing  
5 counsel to Page 377. Were you asked these  
6 questions and did you give these answers?

7 "Question: About how long does it take you to  
8 get home from Sandy Hollow store?

9 Answer: Sandy Hollow? About half an hour,  
10 roughly.

11 Question: How long does it take you to get to  
12 the bank from your home?

13 Answer: A little over the same.

14 Question: A little over half an hour?

15 Answer: Well, little -- yeah. Roughly -- I  
16 mean, anywhere on the east side of town is a half  
17 hour.

18 Question: And it's kind of in the east or east  
19 central part of town?

20 Answer: Yes.

21 Question: The bank?

22 Answer: Yes."

23 Were those questions and answers that you  
24 gave and that you received in the Grand Jury?

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1 A. Yes.

2 MR. BOWMAN: Alan, before you can answer a  
3 question like that, you need to have the transcript  
4 in front of you so that you can --

5 THE WITNESS: Okay.

6 MR. BOWMAN: -- read it, okay?

7 THE WITNESS: Uh-huh.

8 MR. BOWMAN: I wouldn't just assume. I'd want  
9 you to look at it first.

10 THE WITNESS: Okay.

11 BY MS. EKL:

12 Q. Mr. Beaman, I'm putting before you the  
13 deposition Exhibit No. 3. I'll ask you to look at  
14 Pages -- the bottom of Page 377 and the top of 378.

15 Following those questions and directing  
16 you to the last line of 377, were you asked:

17 "When you go there or to your friends that you  
18 mentioned that live on the east side of town, do  
19 you go through Rockford?

20 Answer: Yes.

21 Question: That's your normal route of travel?

22 Answer: Yeah."

23 Were those questions that you were asked  
24 and the answers that you gave?

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APPENDIX 000637

1 A. Yes.

2 Q. So at the time that you testified before  
3 the Grand Jury, you testified that your normal  
4 route of travel to those locations was through  
5 town, correct?

6 MR. BOWMAN: Objection.

7 THE WITNESS: I think I was more or less  
8 answering a fragment of the question.

9 BY MS. EKL:

10 Q. Which fragment of the question were you  
11 answering?

12 A. Well, the latter of the things he asked  
13 about was going to my friends' houses. So that  
14 included all of my friends. So that was what I'm  
15 answering.

16 Q. What included all of your friends?

17 A. His question.

18 Q. So your testimony was that you were not  
19 answering the portion of the question that asked  
20 you when you went to Bell Federal whether or not  
21 you went through town?

22 A. I really couldn't say exactly what I was  
23 thinking at the time as far as answering the  
24 question, but it appears to me that I was answering

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1 a fragment of the question, because it was  
2 essentially two questions compiled into one.

3 And I was trying to give yes or no answers  
4 and was anticipating follow-up questions.

5 Q. In your answer, you did not clarify which  
6 portion of the question you were answering,  
7 correct?

8 A. That's correct.

9 Q. And you understood him to be asking you  
10 also about your route to the bank, correct?

11 A. As part of that conversation, yes.

12 Q. Mr. Souk also asked you questions  
13 specifically about the bypass route during Grand  
14 Jury, correct?

15 A. It appears here, he did, yes.

16 Q. So specifically, he asked you -- again,  
17 directing counsel to Page 378.

18 "Question: There's sort of a beltway, you might  
19 call it, that kind of goes around Rockford, part of  
20 it? And you answered the bypass.

21 Question: The bypass? What's that called?

22 Answer: Route 20."

23 Were those questions that you were asked  
24 and answers that you gave?

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1 A. Yes.

2 Q. And after he asked those questions and you  
3 answered in the manner that you did, you did not  
4 specify that you went to the bank by Route 20,  
5 correct?

6 A. No.

7 Q. In fact, you told him that the bypass is  
8 Route 20? It's the same thing, correct?

9 A. Yes.

10 Q. And you told him that you used that route  
11 to get to the Sandy Hollow store because it's on  
12 11th Street right behind the bypass, correct?

13 A. Correct.

14 Q. You also agreed that the bypass route or  
15 Route 20 to 39 was the best way to get from your  
16 home to Bloomington-Normal, correct?

17 MR. BOWMAN: I'm going to object to the -- you  
18 know, again, this is -- there's a way to do this  
19 and I object.

20 BY MS. EKL:

21 Q. Were you asked this -- I'll rephrase it.  
22 Were you asked this question and did you give this  
23 answer?

24 "Question: When you go from your home to

266

1 Bloomington-Normal, that would be the best way to  
2 use the bypass, right?

3 Answer: Route 20 to 39, yes."

4 Were those -- was that the question you  
5 were asked and the answer you gave?

6 A. I would question your vocal inflections in  
7 asking that question, that would be the best way to  
8 use the bypass, right?

9 The best way to use to get to  
10 Bloomington-Normal, not the best way to use the  
11 bypass, but yes, that's the question and answer  
12 that I gave.

13 Q. What did you do after you deposited money  
14 in the bank back on August 25th of 1993?

15 A. After I deposited money in the bank, I  
16 went home.

17 Q. What route did you take to get from Bell  
18 Federal home?

19 A. I would likely have taken the bypass.

20 Q. Do you have a specific recollection of  
21 taking the bypass?

22 A. Not a particular recollection of taking  
23 the bypass, but it wouldn't have made sense to go  
24 any other way.

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C03780

1 Q. The bypass would have been the fastest  
2 route to get home?

3 A. Yes.

4 Q. When you returned home after depositing  
5 your check and the cash, what did you do?

6 A. I went to bed.

7 Q. And in fact, that's what you told the  
8 Grand Jury. And I'm directing you to Page 379.

9 You were asked the question: "Then, after  
10 you went to the bank and made the deposit, what did  
11 you do?" And you answered: "I went home and went  
12 to bed." Correct?

13 A. What page again, please?

14 Q. 379.

15 A. 379. I'm not finding that on 37 -- wait.  
16 Okay. I find it now.

17 Q. Was that a question you were asked and an  
18 answer that you gave?

19 A. Well, I was asked: "Then, after you went  
20 to the bank and made the deposit, what did you do?  
21 I went home and went to bed." Yes.

22 MR. BOWMAN: I want to take a break at this  
23 point. We're going to take a short break.

24 MS. EKL: Can I just finish this line of

268

1 questioning? I have a couple questions.

2 MR. BOWMAN: No. I have -- I want to take a  
3 break now. There's not a question pending.

4 THE VIDEOGRAPHER: We are off the record at  
5 10:29 a.m.

6 (A short break was taken.)

7 THE VIDEOGRAPHER: We are back on the record at  
8 10:37 a.m.

9 BY MS. EKL:

10 Q. You did not tell the Grand Jury that you  
11 made or received any phone calls between the time  
12 that you got home and the time that you went to  
13 bed, correct?

14 THE VIDEOGRAPHER: Microphone.

15 MS. EKL: Was that picked up or do you need it  
16 repeated?

17 THE VIDEOGRAPHER: I got it.

18 THE WITNESS: I did not remember making those  
19 phone calls at the time, but looking at evidence  
20 that's come to light, I have deduced that that  
21 makes the most sense, that I made the phone calls.

22 BY MS. EKL:

23 Q. My question was, you did not tell the  
24 Grand Jury -- regardless of what you've later

269

1 deduced, you did not tell the Grand Jury that you  
2 made any phone calls or received any phone calls  
3 after you arrived home from the bank and before you  
4 went to bed, correct?

5 A. That's correct.

6 Q. And as you sit here today, you can't  
7 truthfully testify that you actually recall making  
8 or receiving any phone calls, correct?

9 A. I don't have an independent recollection  
10 of making those phone calls, but again, it makes  
11 the most sense.

12 Q. If you had remembered talking to Olson  
13 back at the time that you testified before the  
14 Grand Jury, that is something that you would have  
15 wanted to tell the Grand Jury, correct?

16 MR. BOWMAN: Objection. Form. Foundation.

17 THE WITNESS: If I had remembered talking to  
18 Mitch Olson, that is something I would have wanted  
19 to tell the Grand Jury, I would think so, yes.

20 BY MS. EKL:

21 Q. What time did you go to bed that day?

22 A. I couldn't give you a specific time.

23 Q. Was your regular routine to make any  
24 arrangements in your bedroom before you would go to  
270

1 sleep, in terms of, would you do anything to either  
2 block out light or block out sound or anything of  
3 that sort?

4 A. I would usually block out the light, yes.

5 Q. And what -- how would you go about doing  
6 that?

7 A. I would hang a blanket over the curtain  
8 rod to make it thicker so that less light would  
9 come in.

10 Q. Did you take any steps to make it any  
11 quieter in your room?

12 A. I don't remember whether I did. I  
13 think -- I don't remember whether I did.

14 Q. Was it part of your routine to lock your  
15 door when you would go to sleep?

16 A. The door didn't have a lock.

17 Q. What time did you get up on August 25th,  
18 on that Wednesday?

19 A. I believe my mother woke me up. I  
20 wouldn't be able to tell you exactly what time.

21 Q. Was your mother the first person that you  
22 saw that you knew since leaving for work at --  
23 between -- or leaving work between 9:00 and  
24 11:00 a.m.?

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1 A. Was she the first person I saw that I  
2 knew?

3 Q. Correct.

4 A. After leaving work, yes, I believe so.

5 Q. And other than seeing bank personnel, was  
6 there anyone else that you came across during that  
7 time period that you did not know?

8 A. Not to my knowledge.

9 Q. When you testified before the Grand Jury,  
10 were you aware of the Bell Federal video?

11 A. I'm not sure. I think -- I think I was by  
12 then, but I don't remember for sure.

13 Q. Did you have any documents to back up your  
14 story that you were at the Bell Federal?

15 A. I don't remember.

16 Q. Would you agree that at least as of the  
17 time that you testified before the Grand Jury, you  
18 were unaware of any person who could vouch for your  
19 whereabouts from 11:00 a.m. until your mother woke  
20 you up at 3:00 p.m.?

21 MR. BOWMAN: Objection to the form of that  
22 question. It assumes facts not in evidence.

23 THE WITNESS: You're asking if I'm aware of  
24 anybody who could have confirmed my whereabouts

272

1 after I left the bank until my mother got home?

2 BY MS. EKL:

3 Q. Correct.

4 A. No, I'm not aware of anybody that could  
5 confirm my whereabouts after I left the bank until  
6 my mother got home.

7 Q. When your mother woke you up, did you have  
8 a conversation with her?

9 A. Probably.

10 Q. What time was it that she woke you up?

11 A. I don't remember.

12 Q. If you looked at your Grand Jury  
13 testimony, if you testified to that before the  
14 Grand Jury, would that refresh your recollection?

15 A. It might, yes.

16 Q. If you could -- I'll direct you to  
17 Page 379.

18 If you could take a look at that page and  
19 see if there's anything on there that helps you  
20 remember at what time you got it.

21 A. Right. Yeah. It says I got up about  
22 5:00 o'clock.

23 Q. Does that refresh your recollection that  
24 that's the time that you woke up?

273

1 A. Yes.

2 Q. And I'm sorry, I know I just asked this  
3 question, but what, if anything, do you recall  
4 about the conversation that you had with your  
5 mother when she woke you up?

6 A. I don't really remember.

7 Q. Do you recall her telling you that  
8 Pastor Olson had called?

9 A. I suppose.

10 Q. And she, in fact, told you that he had  
11 called to remind you that you had rehearsal that  
12 night, correct?

13 A. Well, she told me that he had called, I  
14 guess. I don't have a good recollection of all  
15 that.

16 Q. Directing you to Page 379 -- the bottom of  
17 379 and the top of 378 of your Grand Jury  
18 testimony, were you asked these questions and did  
19 you give these answers before the Grand Jury?

20 "Did she, referring to your mother, mention to  
21 you when you got up that Pastor Olson had called  
22 about the rehearsal?

23 Answer: I believe so, yes.

24 Question: I ask you to be as sure as you can.

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1 You believe so or you -- or you sure?

2 Answer: Yes, I'm sure.

3 Question: What did she tell you?

4 Answer: She told me that he called -- I mean,  
5 that we had rehearsal. He was just reminding me  
6 that I had rehearsal that night."

7 A. Okay.

8 Q. Were those the questions that you were  
9 asked and the answers that you gave?

10 A. Yes.

11 Q. And were those truthful answers before the  
12 Grand Jury?

13 A. To my best recollection.

14 Q. After you woke up, what was the next thing  
15 that you recall doing?

16 A. I think I got ready to go to the  
17 rehearsal.

18 Q. Was there an ice cream social that night  
19 at the church?

20 A. Yes.

21 Q. And did you go to that ice cream social  
22 before you went to rehearsal?

23 A. It was -- yes.

24 Q. Approximately what time was that?

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1 A. It was right before the rehearsal. I  
2 don't remember the exact time.

3 Q. What time was the rehearsal,  
4 approximately?

5 A. I couldn't tell you the exact time of that  
6 either.

7 Q. Can you approximate it?

8 A. It was in the evening.

9 Q. You saw Pastor Olson at the ice cream  
10 social, correct?

11 A. Yes.

12 Q. And that was the first time that you had  
13 seen him since the previous Sunday, correct?

14 A. I think so.

15 Q. What did you do after the ice cream  
16 social?

17 A. Then, we rehearsed.

18 Q. And how long did that take place?

19 A. I don't know. Maybe -- I don't know  
20 exactly.

21 Q. Did you go anywhere after rehearsal?

22 A. After rehearsal, I went to pick up  
23 Chris Carbone.

24 Q. And where did you pick Chris -- where was

276

1 it that you went to pick him up?

2 A. At his house.

3 Q. And where was that located?

4 A. It's on [REDACTED]. I don't know the  
5 address anymore.

6 Q. After picking up Chris, where did the two  
7 of you go?

8 A. We went to Dave Olson's house. I can't  
9 say whether or not we made any other stops but --

10 Q. And where was Dave Olson's house?

11 A. To my recollection, it's in the -- it's in  
12 a neighborhood off of [REDACTED] along  
13 [REDACTED] maybe. It's in that area. I couldn't  
14 tell you exactly.

15 Q. After going to Dave Olson's house, at some  
16 point, did you go eat at Country Kitchen?

17 A. Yes.

18 Q. And then, did you go to work?

19 A. Yes.

20 Q. What time did you go to work in the early  
21 morning of the 26th?

22 A. I wouldn't be able to tell you exactly  
23 what time but somewhere around 1:00 o'clock.

24 Q. What was your relationship to Dave Olson

277

1 back at that time?

2 A. I didn't really know him. He was having a  
3 party. And friends of mine were at the party and I  
4 went.

5 Q. When did you first meet him?

6 A. At his house that week.

7 Q. Do you know of any reason that he would  
8 deny to the police that he knew who you were?

9 A. He might not want to associate himself  
10 with anything that the police want to know about.

11 Q. I want to ask you a few questions about  
12 Dave Olson's party that week.

13 A. Sure.

14 Q. That party took place over a number of  
15 evenings, correct?

16 A. Yes.

17 Q. How many nights during the week did you  
18 attend Dave Olson's party?

19 A. Every night, as far as I remember. I  
20 might not have gone there on Friday.

21 Q. Approximately how many people attended  
22 each night?

23 A. Maybe 20 or 30.

24 Q. And of those 20 or 30 people, how many of

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1     them did you know before you got to the party?

2             A.    Well, I know for sure I knew -- I know for  
3     sure I knew two, but I think there were other  
4     people that I knew, as well.

5             Q.    And directing you specifically to the  
6     evening of August 25th, who was it that you knew  
7     that attended on that particular night?

8             A.    Well, Chris Carbone went with me. I  
9     wasn't including him in the two but  
10    Shannon Wallenberg and Sonny Spinello.

11            Q.    And those were two individuals that  
12    testified on your behalf at the -- at your criminal  
13    trial, correct?

14            A.    Yes.

15            Q.    Could you just generally describe the  
16    parties in terms of what was going on and just  
17    describe the parties to me?

18            A.    Teenagers, loud music. It was a party.  
19    What specifically are you looking for?

20            Q.    Was there alcohol at the parties?

21            A.    Yes.

22            Q.    And were there drugs at the parties?

23            A.    Yes.

24            Q.    And specifically, on Wednesday night, were

279

1 there drugs and alcohol at that particular party?

2 A. I wouldn't be able to specify which nights  
3 there were and weren't. As far as I know, it was  
4 part of the party.

5 Q. Was there any particular -- any night that  
6 you can recall during that whole week where there  
7 was not alcohol being served?

8 A. I don't have a particular recollection of  
9 that not being the case.

10 Q. So you don't recall there not being  
11 alcohol at the party, is that fair to say?

12 A. Correct.

13 Q. Okay. What drugs do you recall being at  
14 the party?

15 A. Marijuana.

16 Q. Any others?

17 A. I don't know.

18 Q. Do you know whether or not  
19 Shannon Wahlberg drank alcohol on Wednesday night?

20 A. I don't.

21 Q. Do you know whether or not she smoked any  
22 marijuana?

23 A. I don't.

24 Q. The same question in regard to

280

1 Chris Carbone.

2 Do you know if he drank any alcohol that  
3 night?

4 A. I don't remember.

5 Q. And do you know whether or not he smoked  
6 any marijuana?

7 A. I don't remember.

8 Q. Did you drink alcohol that -- on Wednesday  
9 when you were at Dave Olson's party?

10 A. I can't specify whether I drank alcohol on  
11 Wednesday, but at periods during the party, at some  
12 point, I did, yes.

13 Q. And when you say at different periods  
14 during the party, are you talking about the party  
15 referring to the whole week or just --

16 A. Throughout the week.

17 Q. -- that night? Throughout the week, did  
18 you smoke marijuana at the party?

19 A. Yes.

20 Q. And in particular, on Wednesday night, did  
21 you smoke marijuana?

22 A. I can't specify, but throughout the week,  
23 I did.

24 Q. In addition to smoking marijuana, were you  
281

1 doing any other drugs during that time period --  
2 not specifically at Dave Olson's party but during  
3 that time period at the end of August of 1993?

4 A. I don't think so.

5 Q. But you're not sure?

6 A. I'm not sure.

7 Q. Where did you typically get your marijuana  
8 from when you were in Rockford during that time  
9 period?

10 A. My friends had connections. I didn't have  
11 any, because I was away at school most of the time.

12 Q. Did you have to pay for it?

13 A. Sometimes I would give money to a friend  
14 to get it for me.

15 Q. Did you give Dave Olson any money for the  
16 alcohol at his party?

17 A. I don't remember whether I did or not.

18 Q. Did you give anyone else at the party  
19 money to pay for alcohol?

20 A. I'm not sure.

21 Q. Did you bring any alcohol to the party?

22 A. No.

23 Q. How did you pay for either alcohol or  
24 marijuana during that end of August of 1993?

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1 A. Again, I would -- a friend would go and  
2 get something for me or -- I think I drove Dave to  
3 the liquor store at one point.

4 Q. My question was, how did you pay for it?  
5 Where did you get the money?

6 A. I had cash.

7 Q. Where did you receive the cash?

8 A. From working.

9 Q. What time did you get off work on  
10 Thursday, the 26th?

11 A. It would have been sometime in the  
12 morning. I don't know.

13 Q. What did you do after that -- after work?

14 A. I believe Thursday, I went and was sealing  
15 my uncle's driveway.

16 Q. Did you go home before you went to your  
17 uncle's?

18 A. It's possible, but I don't remember.

19 Q. Did you see anyone during that time period  
20 between leaving work and going to your uncle's?

21 A. Anyone that I knew?

22 Q. Anyone that you knew.

23 A. I don't remember.

24 Q. How long did you stay at your uncle's?

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1           A.    Most of the rest of the morning, I think,  
2    maybe into the early afternoon. I don't know. I  
3    was -- I think I just sealed the cracks that day.  
4    So it may have been a shorter period of time.

5           Q.    But you don't recall specifically?

6           A.    No.

7           Q.    What did you do after leaving your uncle's  
8    house?

9           A.    To my recollection, after I got done with  
10   what I was doing on his driveway, I went home and I  
11   went to bed.

12          Q.    Did anyone else help you seal your uncle's  
13   driveway or were you by yourself that day?

14          A.    I was by myself.

15          Q.    What time was it that you got home from  
16   your uncle's house?

17          A.    I don't remember.

18          Q.    What time did you -- you got home and you  
19   went to bed?

20          A.    To my recollection.

21          Q.    What time did you get up?

22          A.    I really don't know. I don't remember.

23          Q.    You went with friends back to Dave Olson's  
24   house around 10:00 o'clock later that night,

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1 correct?

2 A. On Thursday?

3 Q. Correct.

4 A. I don't remember specifically, but I'm  
5 pretty sure I went to his house Thursday night.

6 Q. Do you remember who you were with at that  
7 time?

8 A. Not specifically, no. I might have been  
9 with Sonny and Shannon or I might have been with --  
10 I don't know if -- I'm trying to think of who else  
11 went there but --

12 Q. What did you do from the time that you got  
13 home from -- I'm sorry.

14 From the time that you woke up until the  
15 time that you left to go to Dave Olson's house on  
16 Thursday?

17 A. On Thursday from the time that I woke  
18 up --

19 Q. Correct.

20 A. -- to the time I went to Dave Olson's  
21 house? Probably had dinner with my parents.

22 Q. Do you remember getting into a fight with  
23 your parents on Thursday, August 26, before you  
24 left for Olson's?

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1 A. I know I did get into a big argument with  
2 them, yes.

3 Q. What was the nature of the argument?

4 A. A friend of mine had written me a check.  
5 And I had deposited that. And it bounced.

6 And there was an argument about my need to  
7 be more responsible and more careful about that  
8 sort of thing. And that was the nature of the  
9 argument. That's what it was about.

10 Q. Is it fair to say that you felt that you  
11 were extreme -- that they were extremely offensive  
12 toward your friend?

13 A. I really don't remember exactly. I  
14 suppose maybe they questioned his character. I  
15 don't know.

16 Q. If I could direct you to Page 382 of your  
17 Grand Jury testimony. Were you asked this question  
18 and did you give this answer?

19 "What argument was that?

20 Answer: Um, there had been a couple of  
21 overdrawn charges from Wesleyan on checks that I  
22 had cashed. And they had been very upset about  
23 that and thought that they were checks that I wrote  
24 and bounced.

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1           And when the actual check came through the  
2 mail that was returned to me, it was a check that a  
3 friend of mine had written to me. And they were  
4 extremely offensive towards me -- towards my  
5 friend. And I got upset and left the room and said  
6 Jesus Christ as I walked out.

7           And my dad said, quote, don't use that  
8 kind of language with your mother, end quote, and  
9 grabbed me by the shirt."

10           Do you recall being asked that question  
11 and giving that answer?

12           A. Yes.

13           Q. And did your answer go on to say: "And I  
14 pinned him down to my bed to protect myself"?

15           A. Yes.

16           Q. Which friend was it that had sent you a  
17 bad check?

18           A. JC Schrock.

19           Q. Do you remember now getting upset and  
20 uttering the words Jesus Christ?

21           A. Yes.

22           Q. And that your father got upset over that  
23 language and grabbed your shirt?

24           A. Yes.

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1 Q. And was it a truthful statement when you  
2 told the Grand Jury that you pinned your father to  
3 the bed?

4 A. It was my description of what happened.

5 Q. Why did you do that?

6 A. I think I just reacted to being grabbed.  
7 And I was kind of pushing him away. And the bed  
8 was there. And he fell over on the bed and I went  
9 down with him.

10 Q. Did you feel he was going to hurt you when  
11 he grabbed your shirt?

12 A. No.

13 Q. Did you think that he would strike you?

14 A. No.

15 Q. Had he stricken you in the past?

16 A. No.

17 Q. How big was your father back then?

18 A. He's shorter than I am, but he's smaller  
19 than I am now.

20 Q. Was he smaller than you were back then?

21 A. I don't -- I would never be able to  
22 describe him as a big man, but he's a little  
23 thinner than he used to be.

24 Q. How big were you back then? Could you

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1 describe your height and your weight?

2 A. I was five nine and I weighed about  
3 130 pounds.

4 Q. Would you say he weighed more or less than  
5 you back in 1993?

6 A. Maybe more.

7 Q. Were words also exchanged between you and  
8 your father?

9 A. I don't remember specific words, but I  
10 think I said something about don't you ever  
11 physically assault me, something like that.

12 Q. And you were angry this he laid a hand on  
13 you, correct?

14 A. I think I was blowing it out of  
15 proportion.

16 Q. But you were angry at the time?

17 A. Yes.

18 Q. Did he say anything in response to you  
19 saying don't ever physically assault me?

20 A. I don't remember.

21 Q. How would you describe your relationship  
22 with your father at the time?

23 A. Normally, we had a good relationship. I  
24 think it was maybe a little bit detached, because I

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1 was gone so much and coming home and asserting my  
2 individuality, and then, leaving and going away  
3 again and coming back and that.

4 Q. You told the Grand Jury about this  
5 incident with your father, correct?

6 A. Yes.

7 Q. Were there any other times that you can  
8 think of when you used physical force against your  
9 father?

10 A. No.

11 Q. Were there times that you can recall using  
12 physical force against anyone else up until 1993?

13 A. No. I mean, when I was a kid.

14 Q. Can you describe any incident that you can  
15 think of?

16 A. There was a kid bullying me and I punched  
17 him in the nose.

18 Q. When did that take place?

19 A. Grade school.

20 Q. Did you get disciplined in grade school  
21 for doing that?

22 A. It wasn't at school. It was at home.

23 Q. Were you disciplined by your father or  
24 your mother?

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1 A. I don't remember whether I got in trouble  
2 for that or not.

3 Q. Had your father ever used any physical  
4 force against you throughout your childhood up  
5 until that point in time?

6 A. Very rare spankings when I was a kid.

7 Q. And when you say very rare, let's start  
8 with, how old were you during the times when you  
9 were spanked?

10 A. Very young. I mean, I don't remember him  
11 ever spanking me after grade school age.

12 Q. Were you ever locked in a closet --

13 A. No.

14 Q. -- as part of discipline?

15 A. No.

16 Q. Did you ever tell anyone that you were  
17 locked in a closet as a child?

18 A. No.

19 Q. Did you ever tell that to Ross Minion?

20 A. No.

21 Q. Ross Minion is a friend of yours?

22 A. An acquaintance, yeah. Sort of a friend.

23 Q. How did you know Ross Minion?

24 A. Through school. Through Illinois

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1 Wesleyan.

2 Q. Any reason that Ross Minion -- that you  
3 can think of that Ross Minion would lie to the  
4 police and tell them that you told Ross that you  
5 had been locked in the closet as a child?

6 A. I can't think of one, no.

7 Q. Did you work every night the week of the  
8 murders -- or the murder? Sorry.

9 A. Yes.

10 Q. Are you sure about that?

11 A. As far as I can remember, yeah.

12 Q. Dennis Clark was your supervisor at that  
13 time, correct?

14 A. Yes.

15 Q. Do you know of any reason that he would  
16 tell the police that you missed a day of work that  
17 week?

18 A. No. I don't remember missing a day so --

19 Q. Do you have any reason to doubt, if he  
20 told the police that you had missed a day of work,  
21 that that was, in fact, true?

22 MR. BOWMAN: There's a double negative in  
23 there. I'm going to object to that, because I  
24 think it's a confusing question.

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1 BY MS. EKL:

2 Q. Do you understand the question?

3 MR. BOWMAN: I don't think his answer is going  
4 to be clear.

5 THE WITNESS: Could you repeat it, please?

6 MS. EKL: Sure. Actually, can you read it  
7 back? I'm sorry.

8 (Whereupon, the record was read.)

9 THE WITNESS: Are you asking if I would doubt  
10 his credibility or --

11 BY MS. EKL:

12 Q. Correct.

13 MR. BOWMAN: She wants to know if you missed a  
14 day of work or not, Alan.

15 BY MS. EKL:

16 Q. No, that's not my question. My question  
17 is, if he told the police that his recollection was  
18 that you missed a day of work, do you have any  
19 doubt that that statement was true?

20 A. Yes. I don't believe I missed a day of  
21 work.

22 Q. At approximately 10:12 p.m. on Saturday,  
23 August 28th, you were stopped by some officers,  
24 correct?

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C03806

APPENDIX 000667

1 A. Yes.

2 Q. And could you describe for me where that  
3 took place?

4 A. I believe that took place on  
5 Kilbourn Avenue.

6 Q. Is that near Trask Bridge Road?

7 A. It turns into Trask Bridge Road, I  
8 believe.

9 Q. What did those officers tell you when they  
10 stopped you?

11 A. One officer told me that some detectives  
12 from Normal wanted to talk to me about a homicide.

13 Q. When they told you that, did you ask them  
14 any questions?

15 A. He told me that as he was putting me in  
16 the car, and then, he walked away.

17 Q. Did you ask him any questions after he  
18 told you he wanted --

19 A. I ask --

20 Q. -- to talk to you about a homicide?

21 A. He was responding to my question --

22 Q. What was your --

23 A. -- when he told me that. My question was  
24 what's this about, what's going on.

294

1 Q. Did you ask any further questions once he  
2 told you that it was about a homicide?

3 A. Again, he put me in the car and walked  
4 away.

5 Q. But my question was, did you ask him any  
6 further questions --

7 A. I did not ask any further questions of  
8 him, no.

9 Q. Did you know what homicide he was  
10 referring to when he asked -- when he told you that  
11 it was about a homicide?

12 A. No.

13 Q. Did you wonder what -- who it was that had  
14 been killed that was part of this homicide?

15 A. Yes, I did.

16 Q. Why didn't you ask him who he was  
17 referring to?

18 A. I didn't have time.

19 Q. What do you mean by you didn't have time?

20 A. He put me in the car. I asked him what  
21 this was about. He said some detectives from  
22 Normal want to talk to you about a homicide and he  
23 walked away.

24 Q. When you were stopped, you were stopped by  
295

1 one police car, correct, initially?

2 A. I don't remember specifically. I mean, I  
3 know one police car pulled me over. I don't know  
4 if there were others there.

5 Q. How many police officers were -- in total  
6 were initially present at the stop?

7 A. I don't remember.

8 Q. When you were put into the police car,  
9 where were the office -- where was the officer or  
10 officers in relation to you?

11 A. Outside the car.

12 Q. Was the door left open or closed?

13 A. It was closed.

14 Q. How long were you outside your car before  
15 you were put into the police car?

16 A. Very briefly.

17 Q. Approximately how long?

18 A. A couple minutes. Long enough for him to  
19 search me, put me in cuffs, and put me in the car.

20 Q. So you were pulled over, and at the time  
21 that you were pulled over, you were initially  
22 seated in your car, correct?

23 A. Yes.

24 Q. Were you still seated in your car when you  
296

1 were told that they were pulling you over for a  
2 homicide or was that after you were removed from --

3 A. They told me to get out of the car. I got  
4 out of the car. And he told me about that when he  
5 put me in his car.

6 Q. So you get out of the car and is that when  
7 you first asked what is this about?

8 A. I don't remember exactly when I asked him.  
9 Sometime after he took me out of the car, he was  
10 searching me, and then, he put me in his car. I  
11 think I probably asked him as he sat me down. I  
12 don't remember.

13 Q. So when he first pulled you over, what, if  
14 anything, did he say to you as he walked up to the  
15 car?

16 A. I think he told -- ordered me to get out  
17 of the car.

18 Q. Did you do that?

19 A. Yes.

20 Q. When you got out of the car, what's the  
21 next thing that you recall him saying?

22 A. I really don't remember. I think he asked  
23 me if I had any knives or guns or anything like  
24 that.

297

1 Q. Did you respond to him?

2 A. I think so, yeah. I said no.

3 Q. And at that point, did you ask him why am  
4 I being stopped?

5 A. I'm not sure.

6 Q. What's the next thing he did after asking  
7 you if you had any knives or any other weapons?

8 A. He searched me.

9 Q. And how did he do that?

10 A. He patted me down. He had me facing the  
11 car.

12 Q. During that time period, did you ask him  
13 what's this about?

14 A. I was pretty shocked at that moment. I  
15 wasn't engaging him in conversation. I was a  
16 little scared and it was beyond any experience I  
17 had had with the police.

18 Q. So at that point after he had asked you to  
19 get out of the car and he was searching you, you  
20 didn't ask him why this was?

21 A. I don't think at that point, I did, no.

22 Q. How did he go about searching you?

23 A. He patted me down.

24 Q. Was that on the outside then of your

298

1 clothing?

2 A. Yes.

3 Q. Did he pat you down on the top of your  
4 body and the bottom?

5 A. I don't remember specifically.

6 Q. After he patted you down, did you have any  
7 conversation with him?

8 A. I don't remember. He put me in handcuffs.

9 Q. And were you handcuffed in front or in  
10 back?

11 A. I think I was handcuffed in the back. I'm  
12 not sure, though.

13 Q. Where were you when he put the handcuffs  
14 on you?

15 A. Still faced against the car.

16 Q. And at that point as he's putting  
17 handcuffs on you, did you ask him what's this all  
18 about?

19 A. Again, I'm -- I think I asked him what's  
20 this all about when he sat me down in the car.

21 Q. Why did you think at that point in time  
22 you had been stopped, taken out of your car, patted  
23 down, and put in handcuffs?

24 A. I didn't know.

299

1 Q. And you didn't ask at that point?

2 MR. BOWMAN: I'm sorry. Could I have the  
3 question before read back, please?

4 (Whereupon, the record was read.)

5 MR. BOWMAN: And then, the next question is?

6 (Whereupon, the record was read.)

7 MR. BOWMAN: Okay. Thank you.

8 MS. EKL: And I'm sorry, can -- the very last  
9 question that he hasn't answered yet, could you  
10 repeat that, as well?

11 (Whereupon, the record was read.)

12 THE WITNESS: To my recollection, I didn't ask  
13 at that point.

14 BY MS. EKL:

15 Q. After he put you in handcuffs, how long  
16 were you outside of the car out of your -- outside  
17 of your car before he put you into the squad car?

18 A. Long enough for him to walk me over there.

19 Q. Were you put in the front or the back seat  
20 of the squad car?

21 A. I was put in the front seat.

22 Q. And as you were being put into the squad  
23 car, was there any conversation?

24 A. I think that's when I was asking him

300

1 what's this about.

2 Q. And is it at that point that he told you  
3 it was about a homicide?

4 A. Yes.

5 Q. And did you ask him at -- once he told you  
6 it was about a homicide, at that point, did you ask  
7 him who was it that was killed?

8 A. I didn't ask him any further questions.

9 Q. What's the next thing you recall after  
10 being put into the squad car?

11 A. There was a dog in the back seat. I sat  
12 in the squad car, I don't know how long, and then,  
13 an unmarked car arrived, and then, I was put in the  
14 unmarked car.

15 Q. Who put you into the unmarked car?

16 A. I don't know specifically. It was a  
17 Rockford police officer, to my recollection.

18 Q. Do you remember how many additional  
19 officers arrived in that unmarked car?

20 A. In the unmarked car, there was a Rockford  
21 detective, I believe, and then, Detectives Daniels  
22 and Hospelhorn.

23 Q. Did they introduce themselves to you when  
24 they arrived?

301

1 A. Vaguely.

2 Q. What do you mean by that?

3 A. There was a very brief -- I don't know if  
4 he introduced himself by name or what.

5 I think I asked him what's going on. He  
6 said we want to talk to you about your friend. And  
7 he was very short with that. That was about the  
8 gist of our conversation then.

9 Q. Well, when he said I want to talk to you  
10 about your friend, did you ask him what friend are  
11 you talking about?

12 A. No.

13 MR. DICIANNI: Who's he? I'm sorry.

14 THE WITNESS: Tony Daniels.

15 MR. BOWMAN: Oh.

16 BY MS. EKL:

17 Q. So this conversation is taking place with  
18 Tony Daniels?

19 A. Yes.

20 Q. So you were aware that you had been pulled  
21 over for a homicide and Tony Daniels had told you  
22 that he wanted to talk to you about your friend.

23 Did you believe at that point that you had  
24 a friend, even though you didn't know which friend,

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C03815

1 who was involved in a homicide?

2 A. Yes.

3 Q. You didn't ask him who it was?

4 A. No.

5 Q. Why didn't you?

6 A. I was pretty shocked at that moment. And  
7 he was very short with me with his answer and very  
8 cryptic. And I didn't feel like he wanted to talk  
9 to me about it so --

10 Q. Well, what about --

11 A. I didn't pester him.

12 Q. What about his actions made you feel like  
13 he didn't want you to ask any further questions?

14 A. He didn't volunteer anything more than he  
15 absolutely had to to answer my question.

16 Q. You only asked him the one question,  
17 correct?

18 A. Yes.

19 Q. You didn't try to ask him any further  
20 questions?

21 A. No.

22 Q. He didn't tell you that he wouldn't answer  
23 any of your questions, correct?

24 A. No.

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APPENDIX 000677

1 Q. Tony Daniels and Detective Hospelhorn told  
2 you that you did not have to agree to talk to them,  
3 correct?

4 A. I believe so, yes.

5 Q. But you did agree, right?

6 A. Yes.

7 Q. In fact, you agreed to go with them down  
8 to the sheriff's office in the detective division,  
9 correct?

10 A. I don't believe at the time that I was in  
11 that car that I was agreeing to anything. I felt  
12 that I was in custody at that point. I was wearing  
13 handcuffs and they just drove me there.

14 Q. You specifically told them that you would  
15 go with them, correct?

16 A. I -- I don't remember whether I told them  
17 I would go with them or whether I agreed to talk to  
18 them after we got there.

19 Q. They questioned you at the public safety  
20 building, the county's detective bureau, correct?

21 A. Yeah.

22 Q. How was it that you got there?

23 A. In the unmarked car.

24 Q. What time did you arrive at the county

304

1 building?

2 A. I don't know exactly. I don't remember.

3 Q. Do you recall it to be approximately  
4 11:00 p.m.?

5 A. I really don't remember.

6 Q. What happened when you arrived at the  
7 detective bureau?

8 A. I was placed in an interrogation room.

9 Q. How do you know that it was an  
10 interrogation room?

11 A. It was small and it was empty and it had  
12 nothing but chairs and a table and an ashtray.

13 Q. It didn't have any sign on the door that  
14 said interrogation room --

15 A. Not --

16 Q. -- correct?

17 A. -- to my recollection.

18 Q. The handcuffs were taken off of you as  
19 soon as you arrived, correct?

20 A. I don't remember when the handcuffs were  
21 taken off of me.

22 Q. You were put in the room with  
23 Detective Daniels and Hospelhorn?

24 A. Yeah, I believe they took the handcuffs

305

1 off me. I don't remember for sure.

2 Q. The entire time that you were in that room  
3 with them, they never obstructed your path to leave  
4 through the door, correct?

5 A. No.

6 Q. They never said that you were not allowed  
7 to leave, correct?

8 A. No.

9 Q. In fact, they specifically told you that  
10 you were not under arrest, correct?

11 A. Correct.

12 Q. And they told you specifically that you  
13 could leave at any time?

14 A. Yes.

15 Q. And you understood that at the time?

16 A. Yes.

17 Q. They also told you once you were at that  
18 county building that you did not have to answer any  
19 of their questions, correct?

20 A. I think so, yes.

21 Q. And prior to them saying those things to  
22 you, they hadn't asked you any specific questions  
23 about your knowledge of what had taken place down  
24 in Bloomington-Normal, correct?

306

1 A. No.

2 Q. I'm sorry. I don't --

3 A. They had not answered -- or -- I'm sorry.  
4 They had not asked me anything, if that what you're  
5 asking. I'm sorry.

6 Q. And in fact, you agreed to answer their  
7 questions, correct?

8 A. Yes.

9 Q. And you agreed to allow them to record  
10 those questions and answers, correct?

11 A. Yes.

12 Q. Have you had a chance over the years to  
13 review the transcript of that interview?

14 A. Yes.

15 MS. EKL: I'll go ahead and mark -- I don't  
16 know as far as what number we're on.

17 THE WITNESS: Do you need this anymore?

18 MS. EKL: No.

19 MR. BOWMAN: Can we take another short break?

20 MS. EKL: Sure.

21 THE VIDEOGRAPHER: We are off the record at  
22 11:17 a.m.

23 (A short break was taken.)

24

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APPENDIX 000681

1 (Whereupon, Beaman Deposition  
2 Exhibit No. 5 was marked for  
3 identification.)

4 THE VIDEOGRAPHER: We are back on the record at  
5 11:27 a.m.

6 BY MS. EKL:

7 Q. Mr. Beaman, we've put -- I've put before  
8 you what's been marked Deposition Exhibit No. 5.  
9 Do you recognize this document?

10 A. Not really. Not that page. I recognize  
11 the second page.

12 Q. So the first page is marked witness face  
13 sheet. That's the page that you said that you  
14 don't recognize?

15 A. Yes.

16 Q. Okay. Directing you specifically to the  
17 second page through the end of the document, does  
18 this appear to you to be the transcript of the  
19 questions that you were asked by Detective Daniels  
20 and Detective Hospelhorn back on August 28th of  
21 1993?

22 A. That's what it appears to be, yes.

23 Q. And this is the same transcript that you  
24 indicated that you have had a chance to review over

308

1 the years?

2 A. Yes.

3 Q. During the course of any of your reviews  
4 of this transcript, have you been able to identify  
5 any mistakes or any inaccuracies in the transcript?

6 A. I -- I couldn't speak to that. Mistakes  
7 or inaccuracies? You mean in the way it's  
8 transcribed?

9 Q. Correct. Is there anything that you read  
10 in here in this transcript over the years that you  
11 believe was inaccurately described -- transcribed?

12 A. Transcribed? Not that I know of, no.

13 Q. Were you truthful with the officers during  
14 the interview?

15 A. Yes.

16 Q. How long -- approximately how long did  
17 this interview with the two detectives last?

18 A. I couldn't say how long it was. It was  
19 definitely over an hour. Longer. Maybe two hours  
20 even.

21 Q. You were given a break in the middle of  
22 the interview, correct?

23 A. I don't remember whether I was or not.

24 Q. You were not mistreated during that

309

1 interview, correct?

2 A. Can you be more specific?

3 Q. Do you know what the word -- do you know  
4 what it means to be mistreated?

5 A. Yes.

6 Q. Okay. Did you feel that you were  
7 mistreated during the course of that interview?

8 A. I felt that I was being unfairly accused,  
9 yes.

10 Q. Aside from being unfairly accused, was  
11 there anything else about the manner in which you  
12 were treated while you were in the presence of  
13 Detectives Hospelhorn and Detective Daniels that  
14 caused you to feel that you were being mistreated?

15 A. No.

16 Q. When you wished to conclude the interview,  
17 you were allowed to walk out of that interview  
18 room, correct?

19 A. Yes.

20 Q. And by that point in time, you knew that  
21 the two detectives were investigating  
22 Jennifer Lockmiller's homicide, correct?

23 A. Yes.

24 Q. And that was because they had asked you a

310

1 number of questions about her, correct?

2 A. They had asked me a number of questions  
3 about Jennifer, yes.

4 Q. And you knew she was dead at that point in  
5 time, correct?

6 A. I was not sure about that, because they  
7 had changed what they were saying to me over time  
8 and offered different explanations of whatever had  
9 happened. So I was confused.

10 Q. When you became confused, did you ask them  
11 is Jennifer alive or is she dead?

12 A. I don't remember the specifics. If you  
13 can refer to a page where I said something, I can  
14 look at that but --

15 Q. I'm asking you whether you recall asking  
16 them that question.

17 A. I don't remember asking them that  
18 question, no.

19 Q. Later that night, after you had -- the  
20 interview was concluded, you called a friend of  
21 yours by the name of Don Jones, correct?

22 A. Yes.

23 Q. How do you know Don Jones?

24 A. He's a friend from school.

311

1 Q. Was that a friend from high school or from  
2 college?

3 A. From college.

4 Q. When you called Don Jones, you told him  
5 that the police told you that Jennifer was dead,  
6 correct?

7 A. I don't know whether I told him that or  
8 not. I told him that I wasn't sure whether she was  
9 dead or alive.

10 Q. Describe for me everything that you recall  
11 about that conversation with Don Jones.

12 A. I'm not even sure if I talked to him  
13 personally. I don't remember for sure but -- I  
14 think maybe I did talk to him, but he didn't have  
15 the information I was looking for and I believe he  
16 called back later with that.

17 Q. Well, when you say he didn't have the  
18 information that you were looking for, what do you  
19 recall saying to him or asking him in terms of what  
20 you were looking for?

21 A. I told him that police had told me that  
22 something had happened to Jen, that they were  
23 unclear with me about what actually happened, and I  
24 asked him to find out for me.

312

1 Q. Did you also describe for him what had  
2 taken place in terms of your own interactions with  
3 the police?

4 A. I'm not sure how descriptive I was about  
5 that with him.

6 Q. What was the purpose of calling Don Jones?

7 A. I wanted to know what happened.

8 Q. What did he tell you in response to --  
9 what specifically did he tell you in response to  
10 your question?

11 A. I believe he called back the next day.  
12 And I don't think I talked to him. I think he  
13 talked to one of my parents.

14 Q. But on the night that you talked to him  
15 after you were interviewed by the police, what did  
16 he tell you about knowledge that he had?

17 A. I think he said he didn't know and he was  
18 going to look into it.

19 Q. Where was Don Jones when you called him?

20 A. At his house -- his apartment.

21 Q. And where was that located?

22 A. It was in Bloomington a few blocks off of  
23 the Wesleyan campus.

24 Q. Did you also know Don Jones to be a friend

313

1 of Jennifer's?

2 A. Yeah, an acquaintance through me.

3 Q. Why was it that you called Don Jones as  
4 opposed to anyone else?

5 A. I really don't know. Maybe I knew his  
6 number better than others. I really don't --  
7 couldn't say.

8 Q. If you had wanted to call Jennifer's  
9 parents, did you have their phone number or have a  
10 way of getting a hold of them?

11 A. I don't know if I still had it.

12 Q. Did you have it at some point in time?

13 A. I did at some point in time, yes.

14 Q. When's the last time that you recall  
15 having their phone number?

16 A. Sometime during that previous school year.

17 Q. Was there any reason you would have got  
18 rid of that number?

19 A. I really don't know what I had it on. So  
20 I couldn't say.

21 Q. Did you know Jennifer's friend  
22 Morgan Keefe?

23 A. Yes.

24 Q. And how did you know Morgan?

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C03827

1 A. Only through Jennifer.

2 Q. You knew her to be a close friend of  
3 Jennifer's, correct?

4 A. Relatively, yes.

5 Q. Did you know that she was down in the  
6 Bloomington-Normal area back during the time that  
7 you were questioned by police?

8 A. I don't know if I knew her whereabouts  
9 then or not.

10 Q. After you walked out of the detective  
11 bureau, did you call your parents?

12 A. Yes.

13 Q. What did you tell them?

14 A. I told them that police had questioned me,  
15 that I didn't know where my car was. Beyond that,  
16 I really don't remember what specifically I told  
17 them.

18 Q. Did you tell them that Jennifer was in the  
19 hospital?

20 A. I may have. I don't know. That was one  
21 of the things that Tony Daniels had told me.

22 Q. Is there anything else that you can recall  
23 telling your parents, other than what you've just  
24 said?

315

1 A. Not specifically, no.

2 Q. Did you tell them to come pick you up?

3 A. I think they said -- they volunteered  
4 that.

5 Q. When you called -- did you call your house  
6 to talk to your parents?

7 A. Yes.

8 Q. And who was it that you were speaking to?  
9 Which of the -- which of your parents?

10 A. I think it was my mom, but I'm not  
11 100 percent sure.

12 Q. Did she agree that they -- one of them or  
13 both of them would come and get you?

14 A. I -- yes.

15 Q. While you were walking away from the  
16 public safety building, did one of the officers  
17 approach you in a squad car?

18 A. One of the detectives from Rockford.

19 Q. Do you know the name of that detective?

20 A. I do not.

21 Q. Where were you walking to when he  
22 approached you?

23 A. I was hoping -- I was walking to  
24 Cafe Esperanto, which was not far from there

316

1 downtown.

2 Q. Why were you going there?

3 A. I didn't have my cigarettes and I was  
4 hoping that they would have some for sale there.

5 Q. When you were approached by the detective,  
6 he asked you if you wanted your car back, correct?

7 A. Yes.

8 Q. And you told him that you did?

9 A. Yes.

10 Q. And you let that detective give you a ride  
11 back to the public safety building to get your car,  
12 correct?

13 A. Yes.

14 Q. What happened after you returned to the  
15 public safety building?

16 A. He drove me down into the parking garage  
17 at the public safety building and that was where my  
18 car was.

19 Q. The detective that drove you, do you  
20 recall his name to be Deputy Cowan, C-o-w-a-n?

21 A. It sounds right.

22 Q. When you returned back to the building,  
23 did you again see Detective Daniels and  
24 Detective Hospelhorn?

317

1 A. Yes.

2 Q. And you allowed them to search your car,  
3 correct?

4 A. They did not search my car that I know.  
5 It had been impounded -- or that's the phrase they  
6 used.

7 There was a concern about what to do with  
8 my car when I was stopped, because I was being  
9 handcuffed and taken to the police station.

10 They weren't sure what to do with my car.  
11 And I wasn't sure whether they had it or not. And  
12 they had taken it back as an impound.

13 Q. But when you returned to get your car, do  
14 you recall them asking you if they could search  
15 your car?

16 A. I don't remember whether they asked me.

17 Q. Do you remember signing a release for your  
18 car?

19 A. I believe so, yes.

20 Q. And at that time, they gave you your keys  
21 to your car, correct?

22 A. I think so.

23 Q. You, in fact, drove your car out of the --

24 A. I drove my car out of the building, yes.

318

1 Q. Did you drive home?

2 A. I did.

3 Q. Before getting home, do you remember  
4 stopping anywhere?

5 A. Well, when I drove out of the building, I  
6 drove out to the front of the building, because I  
7 knew my parents were coming. And I didn't want to  
8 have them get there and me not be there so --

9 Q. Did your parents, in fact, arrive then at  
10 the building?

11 A. Yes.

12 Q. And how long had you been out front before  
13 your parents arrived?

14 A. I really don't know. A few minutes maybe.

15 Q. What happened when your parents got there?

16 A. My mom drove their car home, and then, I  
17 drove my car home with my dad riding with me.

18 Q. Did you have a conversation with your dad  
19 in the car between the public safety building and  
20 home?

21 A. I did.

22 Q. And what, if anything, did you say to him  
23 or did he say to you?

24 A. I don't remember specifically what he said

319

1 to me. I know I was expressing confusion, anger,  
2 frustration with the interrogation. And I didn't  
3 know what was going on and -- so I was very  
4 frustrated.

5 Q. Well, in addition to being frustrated and  
6 angry, were you concerned at all about what had  
7 happened to Jennifer?

8 A. I was concerned about what happened to  
9 Jennifer, yes. I didn't know what happened to her  
10 and I was trying to figure out in my head what's  
11 going on.

12 Q. So even if -- under any version of the  
13 facts that were given to you by Detective Daniels,  
14 you knew that something bad had happened to  
15 Jennifer --

16 A. Yes.

17 Q. -- correct?

18 A. Yes.

19 Q. The best case scenario was that she was in  
20 the hospital hurt and the worst case scenario was  
21 she was dead?

22 A. Yes.

23 Q. Did you express those feelings to your  
24 father?

320

1 A. I did.

2 Q. After you arrived home, did you have any  
3 further conversations with your father and/or your  
4 mother about what had just taken place?

5 A. I believe so, yes.

6 Q. And what did you say to them and did they  
7 say to you?

8 A. I don't remember specific details of the  
9 conversation.

10 Q. Well, did you tell them specifically that  
11 you had been asked questions about Jennifer?

12 A. Yes.

13 Q. And did they ask you what you knew about  
14 what had happened to Jennifer?

15 A. I don't know whether they asked me that or  
16 not.

17 Q. Did you tell your parents that you felt  
18 that you were a suspect?

19 A. Well, I was handcuffed and accused. I  
20 don't -- I don't know whether I told them that I  
21 thought I was a suspect.

22 Q. Did you tell them that the detectives were  
23 accusatory in the manner in which they questioned  
24 you?

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1 A. I don't remember if I told them that or  
2 not.

3 Q. Did you have any concern at that point in  
4 time that the police were going to come and  
5 question you some more?

6 A. I suppose.

7 Q. And why was that?

8 A. I don't know. Because I left in the  
9 middle of answering questions.

10 Q. Well, when you talked to the police, you  
11 told them about where you were, what your where --  
12 about your whereabouts during the week of the  
13 murder, correct?

14 A. Yes.

15 Q. And you had an answer for them in terms of  
16 all the different places that you had been during  
17 that week, correct?

18 A. I gave them my best recollection.

19 Q. Did you have any reason to believe that  
20 they would doubt that recollection?

21 A. No.

22 Q. Did you have any conversation with your  
23 parents that evening about trying to gather  
24 evidence to prove that you weren't involved in

322

1 either harming or killing Jennifer?

2 A. I don't know whether we had a conversation  
3 about that that night.

4 Q. Were you thinking about how to find -- how  
5 to gather evidence to prove that you were innocent?

6 A. No. I was thinking about trying to find  
7 out what happened to Jennifer.

8 Q. Did you have any discussion with your  
9 parents that evening about the need for an  
10 attorney?

11 A. I don't -- I don't know whether we  
12 discussed that that evening or not.

13 Q. When was the first time that you can  
14 recall having a conversation with your parents  
15 about needing an attorney?

16 A. I know the following night, when I woke  
17 up, a friend of ours from church, who is an  
18 attorney was -- came over to our house and -- to  
19 talk to us.

20 Q. And that wasn't a visit that was planned  
21 prior to your being picked up by the police,  
22 correct?

23 A. No.

24 Q. Do you know who it was that contacted this

323

1 attorney?

2 A. One of my parents or maybe -- maybe the  
3 Pastor.

4 Q. Did you have a discussion with your  
5 parents or the Pastor about the need for an  
6 attorney before the attorney showed up?

7 A. I don't remember having a discussion with  
8 anybody about the need for an attorney before the  
9 attorney showed up.

10 Q. When you say the Pastor, who are you  
11 referring to?

12 A. Jim Moore.

13 Q. How do you spell -- is it M-o-o-r-e or is  
14 it --

15 A. Yes.

16 Q. When was Jim Moore first contacted about  
17 your interaction with the police?

18 A. I didn't contact him. I don't know.

19 Q. Who contacted him?

20 A. I assume one of my parents, but I don't  
21 know.

22 Q. But you know that it was sometime between  
23 the time that you arrived home in the early morning  
24 of Sunday until later that evening, Sunday evening,

324

1 correct?

2 A. Sometime before Jim Moore arrived.

3 Q. But you were picked up by the police on  
4 Saturday, correct?

5 A. Yes.

6 Q. And you know that -- even if you can't  
7 recall the specific time that that was sometime in  
8 the late evening of Saturday?

9 A. Yes.

10 Q. And that you then went home sometime in  
11 the early morning hours of Sunday, correct?

12 A. Yes.

13 Q. And by sometime later on Sunday is when  
14 the Pastor had been contacted, as well as the  
15 attorney, correct?

16 A. Yes.

17 Q. When you got -- when you arrived home in  
18 the early morning hours of Sunday, other than  
19 talking to your parents, did you talk to anyone  
20 else?

21 A. I don't know if I did that day or not.

22 Q. And I should be more specific. We've  
23 already discussed how you talked to -- I forgot his  
24 name.

325

1           You had a conversation with Don Jones,  
2 correct?

3           A.    Yes.

4           Q.    Now, how -- what time was it in the  
5 morning when you called Don Jones?

6           A.    I don't know.  Shortly after I got home.

7           Q.    Do you remember going and talking to any  
8 of your neighbors about what had just taken place  
9 on Sunday?

10          A.    At some point during that next couple of  
11 days, but I don't remember which day.

12          Q.    Who was it that you talked to?

13          A.    I talked to Mike VanBerriger.

14          Q.    Who is Mike VanBerriger?

15          A.    My next door neighbor.

16          Q.    And just for the court reporter, could you  
17 spell Mike's last name?

18          A.    V-a-n-b-e-r -- I think it's a double r.  
19 I'm kind of guessing at it.  I shouldn't guess.  
20 i-g-e-r, I think, but --

21          Q.    How did you know Mike?

22          A.    I had lived next door to him for many  
23 years.

24          Q.    And how old was Mike back in 1993 when you

326

1 talked to him?

2 A. A couple years younger than me.

3 Q. Was he someone that you considered a  
4 friend?

5 A. Not a very close friend but a neighbor  
6 that I knew well and got along with.

7 Q. Were there times other than this occasion  
8 when you would confide in Mike?

9 A. I hadn't seen him very often in recent  
10 years.

11 Q. When you talked to Mike, how did you do  
12 that? Was it in person or over the phone? How did  
13 that happen?

14 A. I was sitting on my back porch and he was  
15 sitting on his back porch and I walked over and  
16 talked to him.

17 Q. What did you tell him?

18 A. I told him about what had happened to me  
19 that night. I told him I didn't know what was  
20 going on and whether Jennifer was alive or dead and  
21 that I was shocked and freaked out by that. There  
22 was another conversation with him that week.

23 Q. Let me start -- before we go into that,  
24 during the first conversation with him, describe

327

1 for me exactly what you said when you say that you  
2 told him what happened. What did you tell him?

3 A. I don't know exactly what I said.

4 Q. Did you express to him any concern that  
5 the police considered you a suspect?

6 A. I don't remember whether I expressed that  
7 particular concern.

8 Q. How many conversations after that initial  
9 conversation did you have with Mike VanBerriger?

10 A. I talked to him several nights that week  
11 whenever I would be out on the back porch and he  
12 was also out on the back porch.

13 Q. And what, if anything, additional did you  
14 tell him following that first night or that first  
15 day?

16 A. There was another night where I talked to  
17 him about -- that my parents -- my mom had  
18 discovered a mileage receipt that showed what the  
19 mileage of my car was on the day that we bought  
20 tires and that that would show that I couldn't have  
21 gone to Normal.

22 Q. And I'll ask you some more questions about  
23 that mileage receipt in a minute.

24 Anything else that you recall telling him,

328

1 other than that your mother had found the mileage  
2 receipt?

3 A. Not specifically, no.

4 Q. Do you remember when that conversation  
5 took place about the mileage receipt?

6 A. It was sometime later in the week. I  
7 don't know specifically.

8 Q. Going back to Sunday, the 29th, after  
9 arriving home and talking to your parents and also  
10 having the phone conversation with Don Jones, do  
11 you remember whether or not you went to sleep at  
12 all that night?

13 A. On Saturday night, Sunday morning?

14 Q. Saturday into Sunday, right.

15 A. I don't think I did until later in the --  
16 I think it was after church I slept. I may have  
17 slept a little bit before church, but I don't  
18 really remember.

19 Q. So Sunday morning, after being picked up  
20 by the police, did you go to church with your  
21 parents and sing in the services?

22 A. Yes.

23 Q. How did you get to church?

24 A. I think I rode with them, but I'm not

329

1 sure.

2 Q. Was that something that you would  
3 typically do on a Sunday, ride with your parents to  
4 church, or did you normally drive your own car?

5 A. If I was coming back home, yes, but  
6 normally, I would drive my own car if I was going  
7 somewhere else also.

8 Q. Did you have any concern on Sunday  
9 morning, August 29th, about putting -- adding  
10 mileage to your car?

11 A. I don't think so.

12 Q. Was there any other reason that you can  
13 think of as to why you would have gone with your  
14 parents as opposed to driven your own car?

15 A. Other than that I just didn't get any  
16 sleep and I was tired and we were coming right  
17 back.

18 Q. Who was the attorney that your parents --  
19 that -- who was the attorney that came to your  
20 house later that day on Sunday? What was his name?

21 A. Tom Laughlin.

22 Q. Did you personally know Tom before that  
23 day?

24 A. Yes.

330

1 Q. And how did you know him?

2 A. I went to Sunday school with his  
3 daughters.

4 Q. Did you know him in any other capacity?

5 A. Just through church.

6 Q. Was he a civil or a criminal attorney?

7 A. I'm not sure.

8 Q. Do you know what the difference is between  
9 the two?

10 A. I do.

11 Q. What do you recall about Mr. Laughlin  
12 arriving at your house?

13 A. I think he was there when I came out to  
14 the living room after waking up. I'm not sure, but  
15 I think he was already there.

16 Q. Approximately what time was that when you  
17 woke up?

18 A. In the evening.

19 Q. Would it be sometime before 6:00 o'clock  
20 or after 6:00 o'clock?

21 A. I really don't know.

22 Q. Who else was present when Mr. Laughlin was  
23 there?

24 A. Jim Moore was also there.

331

1 Q. Anyone else?

2 A. My parents. I think my grandparents had  
3 arrived.

4 Q. When had they arrived?

5 A. I can't remember exactly when they  
6 arrived. I think they were there already, though.

7 Q. Were they present when you spoke to  
8 Jim Moore and to Mr. Laughlin?

9 A. I don't think so. I'm not sure.

10 Q. Were you aware that Mr. Laughlin was going  
11 to be coming to the house prior to him arriving?

12 A. No.

13 Q. What do you recall about any conversation  
14 that took place once you woke up and went out to  
15 where Mr. Laughlin and your parents were present  
16 and Mr. Moore?

17 A. Any conversation that took place when?  
18 I'm sorry.

19 Q. When you first got up and you went out  
20 into your house, into the living room or whatever  
21 area of your house and saw that Mr. Moore was there  
22 with Mr. Laughlin and your parents, what do you  
23 recall about any conversation that took place?

24 A. I know that at one point, I think I talked

332

1 to Jim Moore alone for a little bit.

2 And somebody -- I think it was my parents  
3 told me that they had heard from Don Jones and that  
4 Jennifer was dead.

5 Q. What do you recall about any conversation  
6 with Mr. Laughlin about his role or why he was  
7 present at your house?

8 A. He was there because I had been handcuffed  
9 and interrogated.

10 Q. How did you -- when did you learn that  
11 that was the reason for him being there?

12 A. I don't know if I learned that. I think I  
13 just understood that.

14 Q. At any point in time, did your parents --

15 MR. BOWMAN: You know, are you going to ask  
16 more questions about this conversation here?

17 MS. EKL: The conversation in front -- as far  
18 as it took place in front of his parents or his  
19 grandparents, yes, and certainly, his -- any  
20 conversation he had with his parents about why the  
21 attorney was there.

22 MR. BOWMAN: Well, I don't know. I think I  
23 need to -- I hear you. I understand where you're  
24 coming from.

333

1 I'm not sure that I agree. And I think  
2 that -- if you're going to continue on this line, I  
3 think that we ought to take a break and just wrap  
4 our minds around the privilege issues that are  
5 lurking in this.

6 And I do understand where you're coming  
7 from, I understand your point, but I still need to  
8 talk with Mr. Beaman and with Mr. Shapiro about the  
9 situation so that I'm confident we're making an  
10 informed judgment as to what to do.

11 MS. EKL: Okay.

12 THE VIDEOGRAPHER: We are off the record at  
13 11:55 a.m.

14 (A lunch break was taken until  
15 1:15 p.m.)

16 THE VIDEOGRAPHER: We are back on the record at  
17 1:15 p.m.

18 MR. BOWMAN: Let me just say what I said to  
19 counsel during our break.

20 We've had discussion on our side about the  
21 issue of whether Mr. Laughlin's conversations with  
22 the Beaman family are protected by the  
23 attorney-client privilege.

24 And it's our judgment that they may be, to  
334

1 the extent that Mr. Laughlin and the Beaman family  
2 understood that Laughlin was coming to the home on  
3 the day in question to advise the family as a whole  
4 and whether the understanding on the parts of  
5 everyone involved was that that was the case.

6 I have not had the opportunity today to  
7 research that issue factually beyond talking with  
8 Alan, who's here.

9 And under the circumstances, we're going  
10 to protect the privilege and not allow Mr. Beaman  
11 to answer questions regarding the advice that was  
12 communicated from Mr. Laughlin at the time.

13 And I understand that that's a debatable  
14 point and recognize the potential consequences of  
15 the position that we're taking, but that's the  
16 position we're going to take today.

17 MS. EKL: And I don't intend on getting into  
18 that conversation. I have a couple of questions  
19 just generally about Mr. Laughlin but not about any  
20 conversations. And so just to -- so that you're  
21 aware where I plan on going with it.

22 BY MS. EKL:

23 Q. When we -- before we took a break, I had  
24 asked you questions.

335

1           And you had indicated that Mr. Laughlin  
2 was an attorney who came to your house on the  
3 morning after you talked to the police, correct?

4           A.    The evening is my understanding.

5           Q.    Okay.  So he was there on the evening of  
6 Sunday, August 29th?

7           A.    I believe so.

8           Q.    Okay.  Was it your understanding that  
9 Mr. Laughlin was there in a capacity to advise you  
10 just generally in regard to issues related to your  
11 questioning by the police and the Lockmiller  
12 homicide investigation?

13          MR. BOWMAN:  You can answer that question yes  
14 or no.

15          THE WITNESS:  Okay.  My understanding was that  
16 he was there to advise my family as a whole about  
17 how to approach what had been -- what had  
18 transpired the night before.

19          BY MS. EKL:

20          Q.    Was it before or after speaking to  
21 Mr. Laughlin that you and/or other members of your  
22 family took photographs of the car that you were  
23 driving during the week that Jennifer Lockmiller  
24 was murdered?

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1 A. I don't remember when. I think it was my  
2 mom who took those photographs. And I don't  
3 remember when she took them.

4 Q. On the following day, on Monday,  
5 August 30th, your parents hired a criminal attorney  
6 for you by the name of Mr. Beu, correct?

7 A. Yes.

8 Q. And after Mr. Beu was hired, did you,  
9 yourself, create notes regarding your memory of  
10 events the evening of Jennifer Lockmiller's murder?

11 A. I believe I did.

12 Q. Do you remember what date you created  
13 those notes?

14 A. I don't.

15 Q. Was it sometime -- would you say that it  
16 was within days of Mr. Beu being hired that you  
17 were asked to do -- or that you did that?

18 A. It was relatively shortly after my first  
19 visit with Mr. Beu, yeah.

20 Q. Did you provide those notes to Mr. Beu?

21 A. I believe so.

22 Q. And even if you can't remember the  
23 specific date, was it sometime after hiring Mr. Beu  
24 and sometime before your appearance before the

337

1 Grand Jury?

2 A. I believe so, yes.

3 Q. Do you know if your current attorneys have  
4 those notes?

5 A. I don't know.

6 Q. When was the last time that you looked at  
7 those notes?

8 A. I don't remember.

9 Q. So do you know if you have -- if you  
10 currently possess a copy yourself?

11 A. I don't believe I possess them, no.

12 Q. To your knowledge, did your parents also  
13 create notes regarding their whereabouts and what  
14 they recall about the week of Jennifer Lockmiller's  
15 murder?

16 A. I believe they did.

17 Q. And also, to your knowledge, did they  
18 create them about the same time that you did?

19 A. As far as I know.

20 Q. Did you ever, at any point in time, read  
21 those notes that your parents created?

22 A. No.

23 Q. You've never read them?

24 A. I don't think so.

338

1 Q. Have you and your parents ever -- or did  
2 you during that time period after you hired Mr. Beu  
3 sit down and discuss what you remembered about the  
4 week of Jennifer Lockmiller's murder?

5 A. With my family?

6 Q. Correct.

7 A. I don't remember whether I did or not. I  
8 don't -- I think we were instructed not to do that  
9 but to give him independent information.

10 Q. Were your parents generally present for  
11 your conversations with your attorneys?

12 A. Sometimes.

13 Q. So were there times when you would talk to  
14 your attorneys without your parents present?

15 A. Yes.

16 Q. Did you ever talk to your attorneys about  
17 your whereabouts during the week of the Lockmiller  
18 homicide investigation in front of your parents?

19 A. Can you ask it again? I'm sorry.

20 Q. Sure. Did you ever have conversations  
21 with your attorney about your whereabouts the week  
22 of the Lockmiller homicide investigation where  
23 those conversations took place in front of your  
24 parents?

339

1 A. I don't remember.

2 Q. Did you show your parents the notes that  
3 you made about your whereabouts?

4 A. No.

5 Q. Did you have discussions with your parents  
6 about finding ways to prove that you could not have  
7 driven to Bloomington the week of Jennifer's  
8 murder?

9 A. I know that -- I know that my mom and I  
10 did talk about that at one point, I think.

11 Q. Do you remember when that was?

12 A. It was when she realized that there would  
13 be a mileage receipt for the tires.

14 Q. Did you have a discussion with your mom  
15 about what day it was that you believed that the  
16 police were claiming that Jennifer was murdered?

17 A. I don't think so.

18 Q. Did your mom tell you why she believed  
19 that Jennifer was murdered on any particular day?

20 A. I don't think so.

21 Q. What did you -- what do you remember about  
22 your mom's discovery of the mileage receipt?

23 MR. BOWMAN: Objection. Vague. Go ahead.

24 Answer to the best of your ability.

340

1 THE WITNESS: What I remember is that she was  
2 excited about discovering that.

3 BY MS. EKL:

4 Q. Do you remember when that took place?

5 A. It was sometime later in the week.

6 Q. And later in what week?

7 A. I don't know. It was -- I know it was  
8 after Sunday. Beyond that, I can't be sure  
9 exactly.

10 Q. And just so that we're clear for the  
11 record, you're talking about the Sunday -- sometime  
12 the week -- during the week that you were  
13 questioned by the police?

14 So if you were questioned by the police  
15 Saturday into Sunday, you're saying it was sometime  
16 after that particular Sunday?

17 A. It was after the police questioned me. It  
18 was -- it was -- I believe it was after that  
19 Sunday, yeah. I --

20 Q. Did your mom tell you how it was she  
21 discovered the receipt?

22 A. I don't remember.

23 Q. Just because I don't think I've put it  
24 into the record, your mom is Carol Beaman, correct?

341

1 A. Yes.

2 Q. And your father is Barry Beaman?

3 A. Yes.

4 Q. When your mom told you about the receipt,  
5 did you think that it was significant?

6 A. I think so.

7 Q. Why?

8 A. Her interest in it explained to me was  
9 that it would prove how far my car had been driven  
10 during the week after the tires had been replaced  
11 and it would eliminate any possibility that I could  
12 have gone to Bloomington-Normal.

13 Q. And that would be assuming that you drove  
14 the car that you regularly drove, correct?

15 A. It would eliminate my possibility of  
16 driving that car to Bloomington-Normal, yes.

17 Q. What day was it that the receipt was  
18 dated, in terms of, what date were the tires put  
19 onto your car?

20 A. I believe it's in the record. I don't  
21 remember.

22 Q. Do you recall that to be the Tuesday  
23 before Jennifer's murder --

24 A. That could be.

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1 Q. -- or of Jennifer's murder?

2 A. I really don't remember it.

3 Q. I'm sorry. The Monday before Jennifer's  
4 murder?

5 A. I really don't remember.

6 Q. What did you do, if anything, with the  
7 receipt after your mother found it?

8 A. I don't think I did anything with it. I'm  
9 not sure what she did with it.

10 Q. Did you make any attempt to get that to  
11 the police department to show them that, look, I  
12 couldn't have been involved in the murder?

13 A. No.

14 Q. Why not?

15 A. My mom was going to do something with it.  
16 So I let her.

17 Q. After you talked to your first attorney,  
18 Mr. Laughlin, were you visited again by any police  
19 officers?

20 A. I was not personally visited by police  
21 officers.

22 Q. When was the next contact you had with the  
23 police after that initial stop on Saturday?

24 A. I believe my next contact with the police

343

1 after that was when Tim Freesmeyer came to serve a  
2 warrant for samples.

3 Q. That would have been af --

4 A. Blood samples.

5 Q. I'm sorry. That would have been after you  
6 returned to school?

7 A. Yes.

8 Q. When did you return to school?

9 A. I don't remember specifically.

10 Q. In addition to finding the receipt, was a  
11 photograph also taken of the odometer of your car?

12 A. I believe my mother took a photograph of  
13 it, yes.

14 Q. Do you know when that was taken?

15 A. I think she took it shortly after  
16 discovering the receipt. Maybe the next day. I  
17 don't know.

18 Q. Sometime between when your car got tires  
19 put onto it and the photograph was taken of the  
20 odometer, you had installed a new stereo into your  
21 car, correct?

22 A. Yes.

23 Q. Could you tell me what days in comparison  
24 to when your tires were put onto your car that you

344

1 either attempted to install the stereo or did, in  
2 fact, finally get it installed?

3 A. We purchased the stereo -- I purchased the  
4 stereo the same night that we bought the tires.

5 And I began trying to install it that  
6 night, but I ran out of time. I needed to go. And  
7 so I didn't finish it at that point but --

8 Q. And when you say that night, you're  
9 talking about the same night that you returned  
10 after you had the tires put on, correct?

11 A. Yes.

12 Q. And then, did you attempt to install it on  
13 further nights after that?

14 A. At that point, I was trying to find out  
15 how to deal with the fuse box, because there was a  
16 connector I didn't find that it was supposed to  
17 connect to. And so I was trying to figure that  
18 out, but I never did.

19 Q. Okay. So at some point, you were able to  
20 connect the radio to get it to work, correct?

21 A. I had it working, but it wasn't working  
22 properly.

23 Q. Did you have any experience in installing  
24 stereos or working on cars, either one, back in

345

1 August of 1993?

2 A. I had some experience working on cars.

3 Q. And what experience was that?

4 A. A friend of my dad's had helped me rebuild  
5 the engine in a VW Bug.

6 Q. When did you do that?

7 A. In high school.

8 Q. Were there other times when you had  
9 done -- made repairs or done things to your own  
10 vehicle?

11 A. I changed my own oil, I replaced an  
12 accelerator cable in the VW Bug, did some painting  
13 on it.

14 Q. The car that you were driving in August of  
15 1993, that was a Ford Escort, correct?

16 A. Yes.

17 Q. And that was the one that you were  
18 installing the stereo into?

19 A. Yes.

20 Q. Other than installing the stereo, did you  
21 take any -- do any other repairs or do any other  
22 alterations or changes to that car?

23 A. I changed the oil in that car maybe, but  
24 beyond that, no.

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1 THE WITNESS: Can I take a break?

2 MS. EKL: Sure.

3 THE WITNESS: Sorry.

4 THE VIDEOGRAPHER: This marks the end of  
5 Tape 1. The time is 1:29 p.m. We are off the  
6 record.

7 (A short break was taken.)

8 THE VIDEOGRAPHER: This marks the beginning of  
9 Tape 2. The time is 1:36 p.m. We are on the  
10 record.

11 BY MS. EKL:

12 Q. Is it fair to say that similar to the  
13 receipt, the photograph was also not provided by  
14 you to Daniels or Hospelhorn?

15 A. I did not provide it to Daniels or  
16 Hospelhorn.

17 Q. And to your knowledge, your mother or your  
18 father, neither one of them provided that -- the  
19 receipt and the photograph to Daniels or  
20 Hospelhorn, correct?

21 A. Not to my knowledge.

22 Q. There were attempts also made to measure  
23 the distances that you drove, correct?

24 A. I believe so, yes.

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1 Q. And just to be more specific, attempts  
2 were made -- your -- let me back up.

3 Your attorney hired a private investigator  
4 to assist you, correct?

5 A. Yes.

6 Q. Do you remember an investigator by the  
7 name of LaVerne Pickett?

8 A. Yes.

9 Q. You told him that -- the route that you  
10 took around town between August 24th, 1993 and  
11 August 29th of 1993, correct?

12 MR. BOWMAN: Can you hang on for just one  
13 second? I'm guessing that there may be a waiver of  
14 privilege here.

15 MS. EKL: On this issue, yeah.

16 MR. BOWMAN: Can you just -- can you just put  
17 that on the record?

18 MS. EKL: Yeah. I did not make a note of the  
19 specific page numbers of this.

20 MR. BOWMAN: Yeah, just general.

21 MS. EKL: In general, it's my understanding  
22 that this came from -- and I don't know if it was  
23 either the Grand Jury or trial, but I believe it  
24 was his Grand Jury testimony.

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1 MR. BOWMAN: His being?

2 MS. EKL: Being Alan's.

3 MR. BOWMAN: Okay.

4 MS. EKL: Right.

5 MR. BOWMAN: Okay. I shouldn't do it, but I'm  
6 going to rely on you.

7 MS. EKL: If you want to look at the  
8 transcript, we've got it. I mean, I just --

9 MR. BOWMAN: I hate to -- I hate to take the  
10 time. We'll just take these kinds of issues point  
11 by point.

12 MS. EKL: Okay.

13 MR. BOWMAN: But --

14 MS. EKL: I don't --

15 MR. BOWMAN: -- as far as his conversation with  
16 the investigator regarding his travels in Rockford,  
17 that's okay to answer.

18 BY MS. EKL:

19 Q. You actually drove with Mr. Pickett the  
20 route that you took between Tuesday night at Sears  
21 to your home after the police stop on Saturday,  
22 correct?

23 A. I drove with Mr. Pickett to try to  
24 recreate, to my best recollection, where I drove,

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1 yes.

2 Q. You and Mr. Pickett drove together over  
3 the course of two different days, correct?

4 A. I don't remember specifically how long it  
5 took.

6 Q. Do you remember Mr. Pickett preparing a  
7 report regarding the distances that you indicated  
8 to him you had driven?

9 A. I know that he did, yes.

10 MS. EKL: Let's go ahead and mark this  
11 Deposition Exhibit No. 6. I think this might  
12 alleviate your concerns about those questions.

13 MR. BOWMAN: Right. Thanks.

14 (Whereupon, Beaman Deposition  
15 Exhibit No. 6 was marked for  
16 identification.)

17 BY MS. EKL:

18 Q. Mr. Beaman, showing you what has been  
19 marked Deposition Exhibit No. 6, do you recognize  
20 that document?

21 A. It's been a long time. I think this is  
22 self-explanatory.

23 Q. Is it accurate to say that this is a memo  
24 or a letter that was written to your Attorney Beu,

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1 or at least it purports to be, from  
2 Investigator LaVerne Pickett?

3 A. Yes.

4 Q. And it advises that per Mr. Beu's request,  
5 it states I had Alan Beaman accompany me in my  
6 vehicle so that we could accurately travel the same  
7 routes that he traveled, to the best of his memory,  
8 from approximately 9:00 p.m. on August 24th, 1993  
9 through Sunday, August 29th, 1993.

10 Does that accurately reflect what that  
11 document states?

12 A. Yes.

13 Q. And do you recall that this document  
14 was -- was, in fact, provided to the Grand Jury and  
15 shown to the Grand Jury at the time that you  
16 testified?

17 A. I don't remember what was provided to  
18 them.

19 Q. To your knowledge, what -- were there  
20 other steps that your parents took to investigate  
21 your whereabouts in the week of  
22 Jennifer Lockmiller's murder?

23 A. I really don't know what they did to  
24 investigate. I don't remember it. I'm sure some

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1 of it's in the record, but I don't remember  
2 specifically what all they did.

3 Q. Can you remember anything at all that they  
4 did beyond what we've already talked about?

5 A. I really can't, no.

6 Q. And I should have asked you before, you  
7 have had a chance in the past to look over this  
8 document, correct?

9 A. I don't remember it. It may have been in  
10 discovery. I don't remember it.

11 Q. Do you have any reason to doubt that the  
12 distances that are indicated within this document  
13 are in any way inaccurate? Or I'm sorry.

14 Do you have any reason to doubt that that  
15 are not accurate?

16 MR. BOWMAN: Objection. That's -- I don't  
17 understand the question. Does he think they're  
18 accurate?

19 MS. EKL: Right.

20 THE WITNESS: This -- I -- I would not be able  
21 to criticize their accuracy sitting down looking at  
22 it right here.

23 BY MS. EKL:

24 Q. The visitation for Jennifer Lockmiller was  
352

1 on Tuesday, August 31st. Did you attend that  
2 visitation?

3 A. No, I did not.

4 Q. Why not?

5 A. I felt that there had been an accusation  
6 towards me and that it might be an awkward  
7 situation for myself and other people involved in  
8 it.

9 Q. And what other people did you feel it  
10 would be awkward for?

11 A. I felt that her family might feel  
12 similarly suspicious of me the way the police had.

13 Q. And up until that time on August 31st, you  
14 had only been questioned by the police on that one  
15 occasion on Saturday, correct?

16 A. Correct.

17 Q. Did you attend her funeral?

18 A. No.

19 Q. And the reason that you -- is the reason  
20 that you did not attend her funeral the same as the  
21 reason you did not attend her visitation?

22 A. Yes.

23 Q. By that point in time, had you talked to  
24 any of your friends or any of Jennifer's family

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1 members about her death?

2 MR. BOWMAN: I'm sorry. Could I have it back,  
3 please?

4 (Whereupon, the record was read.)

5 THE WITNESS: By the time of the funeral?

6 BY MS. EKL:

7 Q. Correct.

8 A. I don't remember ever talking to anyone in  
9 her family after that, but yes, I talked to -- I  
10 don't remember specifically who all I talked to  
11 about it, honestly.

12 Q. You had, by that point in time, talked to  
13 some of your friends about her death?

14 A. I had, yes.

15 Q. For instance, on September 1st, at about  
16 1:00 o'clock in the morning, do you remember going  
17 to Chris Carbone's house?

18 A. When was this? I'm sorry.

19 Q. September 1st at approximately  
20 1:00 o'clock in the morning.

21 A. What day of the week is that?

22 Q. It must have been a Wednesday. If  
23 August 31st was Tuesday -- so it would have been  
24 Wednesday, September 1st.

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1 A. Wednesday. I know there were times after  
2 I was first accused that I saw Chris Carbone. And  
3 that might have been one of them.

4 Q. Where was Chris living at that time?

5 A. He was staying at his parents' house.

6 Q. Where did his parents live?

7 A. I told you that before, I think.

8 [REDACTED] Yeah.

9 Q. Do you remember anything that you  
10 discussed with Chris in regard to Jennifer's murder  
11 on September 1st?

12 A. I don't remember specifics.

13 Q. Do you remember generally anything?

14 A. I know he was consoling. Not really.

15 Q. We already talked briefly about some  
16 conversations you had with Michael VanBerriger.

17 Do you remember telling him at any point  
18 in time that you thought that maybe Bubba did the  
19 murder?

20 A. I don't remember whether I told him that.

21 Q. At some point in time, did you visit  
22 Jennifer Lockmiller's grave?

23 A. Yes.

24 Q. And when was that in relation to when her

355

1 visitation took place?

2 A. I don't know in relation to the visitation  
3 but sometime after I went back to school.

4 Q. When -- and I'm sorry if -- you gave me  
5 the date, I think. What date did you go back to  
6 school?

7 A. I told you I didn't remember that either.

8 Q. You didn't remember. I'm sorry. That's  
9 why I don't remember.

10 When you went to see her grave, who did  
11 you go with?

12 A. I went with Chris Carbone and John Murray.

13 Q. Had you had any discussions up until that  
14 point in time with John Murray about why it was  
15 either of you thought -- or who -- how it was that  
16 either of you thought Jennifer was killed?

17 A. No.

18 Q. And you certainly didn't suspect  
19 John Murray at that point in time as having killed  
20 Jennifer, correct?

21 A. No.

22 Q. Both Chris and John were your friends at  
23 that time, right?

24 A. Yes.

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1 Q. Did you go with anyone else besides the  
2 two of them?

3 A. No.

4 Q. Do you remember that the date that you  
5 went to Jennifer's grave was on Sunday,  
6 September 19th? Does that sound accurate?

7 A. I really couldn't tell you. I don't know.

8 Q. Do you know whether any of them, meaning  
9 Chris Carbone or John Murray, had been interviewed  
10 by the police at the point in time you went to  
11 Jennifer's grave?

12 A. I don't know. I don't remember whether  
13 they had been interviewed at that time.

14 Q. Had you -- did you at any point in time  
15 have any discussions with -- we'll start with  
16 Chris Carbone about any interviews that he had with  
17 the police?

18 A. I believe so.

19 Q. So he, in fact, told you that he had been  
20 interviewed by the police?

21 A. I think so, yeah.

22 Q. Did you have any discussions with  
23 John Murray about the fact that the police had also  
24 interviewed him in regard to Jennifer Lockmiller's

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1 murder?

2 A. I think so. I really don't remember  
3 specifics.

4 Q. But you generally remember that he told  
5 you that he had, in fact, been interviewed by the  
6 police?

7 A. Yes, I think he did tell me that.

8 Q. And during -- throughout the  
9 investigation, did you keep in contact with  
10 Chris Carbone and advise him about the fact that  
11 you had been talked to more than -- on more than  
12 one occasion by the police?

13 MR. BOWMAN: Object to the form of the  
14 question. Compound.

15 THE WITNESS: Chris Carbone and I had several  
16 conversations during that time.

17 BY MS. EKL:

18 Q. And similarly, did you tell Murr --  
19 Mr. Murray that you had been interviewed by the  
20 police on multiple occasions?

21 A. My contact with John Murray was much less  
22 consistent than that with Chris Carbone.

23 Q. Well, you kept in contact with Mr. Murray  
24 after you returned to school, correct?

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1 A. Occasionally, in passing.

2 Q. You -- how often would you see Mr. Murray  
3 when you returned to school?

4 A. I saw him around. I attended a couple of  
5 parties at his apartment every now and then. He  
6 wasn't as close a friend as Chris Carbone was --  
7 is.

8 Q. But there wasn't any reason that you would  
9 have stopped talking to Mr. Murray back when you  
10 returned to school in the fall of 1993 --

11 A. No.

12 Q. -- correct? And during those occasions,  
13 did John Murray ever tell you that he felt that he  
14 was a suspect in Jennifer's murder?

15 A. I don't recall him ever telling me that he  
16 felt that he was a suspect.

17 Q. Did he ever tell you about any of the  
18 questions that the police asked him about Jennifer  
19 or his involvement in her murder?

20 A. Can you ask it again? I'm sorry.

21 Q. Sure. Did he -- did John Murray ever tell  
22 you about any of the questions that the police  
23 asked him about his involve -- possible involvement  
24 or involvement in Jennifer's murder?

359

1 A. No.

2 Q. But you were aware that John Murray was  
3 interviewed on multiple occasions by the Normal  
4 Police Department, correct?

5 A. I was aware that he was interviewed.

6 Q. Is there anything that you can recall  
7 about John Murray's -- about the Normal Police  
8 Department's interview of John Murray that was told  
9 to you by John Murray?

10 A. I believe he told me that they wanted a  
11 polygraph.

12 Q. When did he tell you that?

13 A. I don't remember.

14 Q. Did he tell you that he, in fact, did go  
15 down for a polygraph?

16 A. No.

17 Q. Did you ever ask him?

18 A. No.

19 Q. What -- tell me everything that you  
20 remember about what he told you about the fact that  
21 the Normal Police Department wanted him to give a  
22 polygraph.

23 A. He said that he wasn't worried about it.

24 I think he asked -- or he said that if he was

360

1 stoned, it wouldn't be hard to keep from being  
2 nervous.

3 Q. Did he tell you that he was nervous to  
4 take the polygraph?

5 A. Not -- not like that, no.

6 Q. Did you have any discussions with him  
7 about the police wanting you to take a polygraph?

8 A. I don't think so.

9 Q. Was there anything else that Murray told  
10 you about the polygraph that you can remember?

11 A. No.

12 Q. Did he tell you whether or not he thought  
13 that he had passed the polygraph?

14 A. No.

15 Q. Did you ask him?

16 A. No. I don't remember talking to him about  
17 having taken it at all.

18 Q. Did you talk to any other witnesses about  
19 the other witnesses taking polygraphs?

20 A. Chris Carbone told me that he had taken  
21 one.

22 Q. And what did Chris Carbone tell you about  
23 the polygraph?

24 A. He described to me how they set up the

361

1 controls in the polygraph.

2 Q. When did he have that conversation with  
3 you?

4 A. I don't know. Sometime shortly after he  
5 took one.

6 Q. Did you eventually give a polygraph in  
7 this case?

8 A. No.

9 Q. Why not?

10 MR. BOWMAN: I'm going to let you answer that  
11 question.

12 THE WITNESS: Okay. Verne Pickett felt that  
13 polygraphs are unreliable, and that if you're  
14 telling the truth, the polygraph can still hurt  
15 you, and that if you pass the polygraph, it's not  
16 going to take away the police's interest in you.  
17 And so there was no advantage to taking the  
18 polygraph.

19 BY MS. EKL:

20 Q. Did Chris Carbone tell you if he had  
21 knowledge of whether or not he passed the  
22 polygraph?

23 A. I don't remember whether he -- I don't  
24 remember whether they even told him that he passed

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1 it or how that works. I don't remember specifics  
2 about that.

3 Q. Did you ever have any conversations with  
4 John Murray about whether or not he ever took and  
5 passed or failed a polygraph?

6 A. No.

7 Q. You and John Murray have continued to  
8 maintain a friendship, correct?

9 A. Not really, no.

10 Q. So how would you describe your  
11 relationship, if at all, with John Murray today?

12 A. We don't really have one.

13 Q. Well -- so you don't -- would you consider  
14 him a friend?

15 A. An old friend.

16 Q. When's the last time that you talked to  
17 John Murray?

18 A. I haven't talked to him in years.

19 Q. Well, have you communicated with  
20 John Murray over the years?

21 A. We've -- I sent him a Facebook message,  
22 because there had been an article published about  
23 some developments.

24 MR. BOWMAN: Alan, the question is, have you

363

1 communicated with him --

2 THE WITNESS: Yes.

3 MR. BOWMAN: -- okay?

4 BY MS. EKL:

5 Q. Have you ever met John Murray for lunch?

6 A. No.

7 Q. I'm going to show you what I'll mark as  
8 Deposition Exhibit No. 7.

9 (Whereupon, Beaman Deposition  
10 Exhibit No. 7 was marked for  
11 identification.)

12 MS. EKL: Actually -- sorry.

13 MR. BOWMAN: That's fine.

14 MS. EKL: Psych.

15 BY MS. EKL:

16 Q. Alan, showing you what's been marked  
17 Deposition Exhibit No. 7, which is a two-page  
18 document, do you recognize that document?

19 A. Yes.

20 Q. What do you recognize this to be?

21 A. It's a Facebook message that I sent to  
22 John.

23 Q. Could you read your message to him?

24 A. Thought I should say "hi". I assume you

364

1 saw that the infamous "John doe" is excluded by DNA  
2 evidence, along with the poor schmo they locked up.  
3 I hope they will find the son of a bitches that  
4 killed our friend.

5 I thought about contacting you when I was  
6 looking for a house, but at the time, it seemed  
7 inappropriate. Found a good one. I hope it is not  
8 unseemly that I message you now. Looks like you  
9 are well. Bygones old friend? Alan.

10 Q. When you refer to the infamous "John doe",  
11 who are you referring to?

12 A. I'm referring to John.

13 Q. And you mean John being John Murray?

14 A. Yes.

15 Q. Okay. And the poor schmo they locked up,  
16 is that a reference to yourself?

17 A. Yes.

18 Q. You mentioned that you were thinking about  
19 contacting him when you were looking for a house.

20 Why is it that you thought about  
21 contacting John Murray when you were looking for a  
22 house?

23 A. He's a foreclosure realtor.

24 Q. When you were in school with Mr. Murray,

365

1 he wasn't a foreclosure realtor at that time,  
2 correct?

3 A. No.

4 Q. When did you find out that he was a  
5 foreclosure realtor?

6 A. I'm not sure when I found that out, but  
7 I've seen his name on houses that I've looked at  
8 before.

9 Q. When was the last time before this --  
10 well, let me back up.

11 At the top of this page, it says  
12 conversation started 3 July. Do you see that on  
13 the Facebook page?

14 A. Yeah.

15 Q. Does that give you any point of reference  
16 or do you know when it was that you sent this  
17 message to John Murray?

18 A. That's probably when I sent it.

19 Q. And what year would that have been?

20 A. That would have been this year.

21 Q. Well, 2012? Last year?

22 A. Oh, yes. I'm sorry. It would have been  
23 shortly after the DNA testing.

24 Q. When was the last time prior to July 3rd

366

1 of 2012 that you had had any contact of any kind  
2 with John Murray?

3 A. Before I was arrested, I think. Maybe  
4 while I was out on bond.

5 Q. Had you had any communication with  
6 John Murray through a third person?

7 A. I don't think so.

8 Q. Is it possible?

9 A. I don't see why.

10 Q. Turning to the second page, it says  
11 conversation started 9 July. Do you see that?

12 A. Yes.

13 Q. And it shows a message purportedly from  
14 John Murray, correct?

15 A. Yes.

16 Q. Is this the message that you received in  
17 your Facebook account in response to the message  
18 you sent to John Murray?

19 A. Yes.

20 Q. And that message reads call me, and then,  
21 there's a phone number and let's plan to have lunch  
22 over the next couple of weeks. Love to catch up  
23 and thanks for reaching out to me, John, correct?

24 A. Yes.

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1 Q. Have you had any communication of any  
2 sort, either directly or indirectly, with  
3 John Murray since receiving this message from him  
4 on July 9th?

5 A. No.

6 Q. When was it that -- how is it that you  
7 first became -- well, let me back up.

8 Did you become Facebook friends with  
9 John Murray?

10 A. No.

11 Q. So this was just a message without  
12 actually sending a friend request?

13 A. Correct.

14 Q. Was there any reason -- did you send a  
15 friend request to John?

16 A. No.

17 Q. Did he send a friend request to you?

18 A. No.

19 Q. Is there any reason why you did not do  
20 that?

21 A. No.

22 Q. Do you have a concern that if you are --  
23 that it would hurt your case if you have contact  
24 with John Murray?

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1 A. Possibly.

2 Q. And is that perhaps a reason why you have  
3 not friended John Murray or reached out to  
4 John Murray further beyond what this message says?

5 A. I think that given that the nature of the  
6 investigation is not complete, I wanted him to know  
7 about the DNA testing. I felt that that was  
8 something he should hear about, but I'm not sure if  
9 I'm ready to have a relationship with him.

10 Q. You were the one that first reached out to  
11 him, correct?

12 A. Yes.

13 Q. So as far as John Murray knows, you've  
14 just never responded to his invitation for lunch,  
15 correct?

16 A. Correct.

17 Q. Do you have any plans to reach out to  
18 John Murray in the future?

19 A. It's possible.

20 Q. You, in fact, have never at any point in  
21 time suspected that John Murray killed  
22 Jennifer Lockmiller, correct?

23 A. I've never suspected any particular person  
24 at all.

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1 Q. Well, other than as we spoke about the  
2 last deposition session, you talked about having  
3 suspicions about Bubba at one point in time,  
4 correct?

5 A. I felt that he should be -- that they  
6 should have talked to him.

7 Q. Well, you're aware the police did talk to  
8 Bubba, correct?

9 A. Yes.

10 Q. Okay. But you certainly had more  
11 suspicions of him than you ever did of thinking  
12 that John Murray committed the murder, correct?

13 A. Sure.

14 Q. At what point in time did you recall that  
15 you had gone to Bell Federal?

16 A. I don't think I remembered it until  
17 Freesmeyer brought it up.

18 Q. So to your knowledge, did your attorney do  
19 anything to investigate or corroborate -- I'm  
20 sorry. Did your attorney -- strike that.

21 After learning about Bell Federal from  
22 Freesmeyer, did your attorney, to your knowledge,  
23 do anything to investigate or corroborate your  
24 visit to Bell Federal?

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1 MR. BOWMAN: Okay. I have an issue here. Can  
2 you explain to me why that's waived?

3 MS. EKL: Why -- I'm not saying it's -- I'm not  
4 necessarily saying it's waived.

5 I mean, there's been a lot of discussions  
6 throughout the proceedings over the years about  
7 different things related to Bell Federal. That  
8 particular question, I don't know that it's been  
9 specifically asked that way.

10 MR. BOWMAN: It's been asked. I mean, has  
11 there been -- are you asking that question because  
12 in general, there's been testimony concerning the  
13 actions of the Beaman defense team in relation to  
14 the -- I mean, are you trying --

15 MS. EKL: There's been --

16 MR. BOWMAN: -- to establish that the video was  
17 acquired by somebody? What's the point of the  
18 question? Why is it necessary?

19 MS. EKL: Well, I mean, without getting into my  
20 own work product --

21 MR. BOWMAN: Yeah.

22 MS. EKL: -- I mean, that causes a problem.  
23 I'm investigating steps that were taken. And I've  
24 been asking questions along this line by both Alan

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1 and his family, and that also includes people on  
2 their behalf, to show that he didn't commit these  
3 murders. And part of that includes his visit to  
4 Bell Federal.

5 The timing of it is -- has been an issue  
6 throughout the criminal proceedings --

7 MR. BOWMAN: No question --

8 MS. EKL: -- and how -- when information was  
9 developed.

10 So where my next question is going with  
11 this in term -- is -- and I don't know whether he  
12 can answer it is in terms of when information was  
13 uncovered, and then, when it was turned over or not  
14 turned over to the police.

15 And I think that those are areas that have  
16 been in some fashion covered. Now, specifically in  
17 that manner, I can't say without going back to the  
18 transcript.

19 MR. BOWMAN: You may well be right. Let me  
20 talk with Mr. Shapiro and we'll just take a short  
21 break and do that.

22 THE VIDEOGRAPHER: We are off the record at  
23 2:02 p.m.

24 (A short break was taken.)

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1 THE VIDEOGRAPHER: We are back on the record at  
2 2:13 p.m.

3 MR. BOWMAN: Okay. So we decided you were  
4 right.

5 MS. EKL: Okay.

6 MR. BOWMAN: And -- but to be clear, what I  
7 mean by that, there was obviously a lot of back and  
8 forth about the Bell Federal information, the  
9 acquisition of the video, and the circumstances of  
10 its disclosure to the State in the context of the  
11 criminal pretrial and the criminal trial  
12 proceedings.

13 And with that as backdrop, I'm going to  
14 permit him to answer the questions regarding the  
15 activities of his team in this connection.

16 MS. EKL: And I --

17 MR. BOWMAN: By his team, I mean his family and  
18 those who were working on his behalf.

19 But we're -- you know, to repeat, we're  
20 going to take this topic by topic and that's as far  
21 as that goes.

22 MS. EKL: And I don't plan on taking it very  
23 far, because I believe it has been pretty fairly  
24 flushed out in the past.

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1 MR. BOWMAN: Right.

2 MS. EKL: So I just have a couple of questions  
3 in this area, and then, I'm going to move on.

4 MR. BOWMAN: Okay.

5 BY MS. EKL:

6 Q. Do you recall my question that I asked  
7 before --

8 A. No.

9 Q. -- we took a break?

10 MR. BOWMAN: Let's have it back.

11 BY MS. EKL:

12 Q. Did your attorney -- after learning from  
13 Freesmeyer that there was information that you had  
14 gone to Bell Federal, did your attorney do -- or an  
15 investigator on behalf of your attorney do anything  
16 to investigate or corroborate your visit to Bell  
17 Federal?

18 A. I was not directly involved with what my  
19 attorney was doing at that time.

20 I was in Bloomington. My family was in  
21 Rockford. They were communicating with my attorney  
22 and I was focussing on school. So I was not really  
23 even paying attention to what was going on in  
24 Rockford.

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1 Q. So is it your recollection that any of  
2 this information about you being at Bell Federal  
3 was -- that information surfaced from sources other  
4 than yourself?

5 A. Yes, that's correct. It surfaced from  
6 sources other than myself.

7 Q. Do you remember approximately when it was  
8 that the Bell Federal information first became  
9 known to you?

10 A. Freesmeyer told me about it.

11 Q. Do you recall when that was?

12 A. I don't.

13 Q. Is it fair to say that prior to that tape  
14 surfacing that the only person that was claiming  
15 that they were able to verify any of your alibi was  
16 your mother?

17 A. In the context of the time that's relevant  
18 to my mother, yes.

19 Q. What do you mean by that?

20 A. I was asked about my whereabouts that  
21 whole week.

22 Q. In the morning or the day of the -- that  
23 you later learned that the murder was alleged to  
24 have taken place, is it fair to say that as far as

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1 your alibi for that time period, prior to this tape  
2 surfacing, your mother was the only person who was  
3 able to corroborate or purported to corroborate any  
4 portion of your alibi?

5 A. After I left work, yes.

6 Q. You mentioned that the next time you had  
7 contact with any police officers was -- after you  
8 were initially contacted was with -- when  
9 Detective Freesmeyer came and told you that he had  
10 a search warrant for samples of your hair and your  
11 saliva and your blood, correct?

12 A. Yes.

13 Q. Do you recall that to be approximately  
14 October 12th of 1993?

15 A. I really don't remember specifically.

16 Q. Was anyone with Detective Freesmeyer on  
17 that occasion?

18 A. I believe John Brown was with him.

19 Q. And what's your understanding in terms of  
20 where John Brown worked at that time?

21 A. My understanding was that he was a special  
22 investigator for the State's Attorney's Office.

23 Q. Did he introduce himself to you when you  
24 met him?

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1 A. I don't remember whether he did or  
2 Freesmeyer did.

3 Q. Meaning that maybe perhaps Freesmeyer  
4 introduced Brown to you?

5 A. I think maybe. I really don't remember.

6 Q. You were actually served with a warrant by  
7 the two of them for those samples of your hair and  
8 blood and saliva, correct?

9 A. Yes, I was served with a warrant.

10 Q. And they took you to a hospital to have  
11 those samples taken?

12 A. Yes.

13 Q. During the drive, the officers read you  
14 your Miranda rights, correct?

15 A. I really don't remember.

16 Q. You knew at that time what Miranda rights  
17 were, correct?

18 A. I knew what I saw on television.

19 Q. You knew that you had a right to an  
20 attorney, correct?

21 A. Yes.

22 Q. And at that point in time, you knew that  
23 you did not have to talk to either Lieutenant Brown  
24 or Detective Freesmeyer, correct?

377

1 A. Yes.

2 Q. And you knew that if you did talk to them  
3 that anything that you said could be used against  
4 you if you were ever criminally prosecuted?

5 A. Yes.

6 Q. Once you were at the hospital, the staff  
7 there are the people that took your blood, hair,  
8 and saliva samples, correct?

9 A. Yes.

10 Q. And then, it was after that that  
11 Freesmeyer and Brown took you back to the Normal  
12 Police Department?

13 A. Yes.

14 Q. What happened once you got back to the  
15 Normal Police Department?

16 A. I believe Freesmeyer needed a photograph  
17 of me and I think maybe he fingerprinted me, too.

18 Q. And after you were printed and  
19 photographed, what's the next thing that you recall  
20 happening?

21 A. I believe we had a conversation in his  
22 office.

23 Q. And do you recall that to be in the  
24 juvenile detective's office?

378

1 A. I really don't remember.

2 Q. But it was somewhere within the Normal  
3 Police Department?

4 A. Yes.

5 Q. Was anyone else present for that  
6 conversation?

7 A. I believe John Brown was there.

8 Q. What do you recall about the room in which  
9 the conversation took place?

10 A. It was an office.

11 Q. Was there -- what kind of furniture was in  
12 the room?

13 A. A desk. I really don't remember the  
14 specific furniture.

15 Q. You were not handcuffed at that time,  
16 correct?

17 A. No.

18 Q. And you were aware again that you did not  
19 have to talk to them if you did not want to,  
20 correct?

21 A. Yes.

22 Q. Do you remember about how long in total  
23 you were at the Normal Police Department?

24 A. I don't.

379

1 Q. How long was the actual portion of being  
2 at the Normal Police Department where you were  
3 interviewed by Detective Freesmeyer and  
4 Lieutenant Brown?

5 A. I really don't remember that.

6 Q. Do you remember that during the course of  
7 that conversation that you -- several breaks were  
8 taken?

9 A. I know at least one was taken.

10 Q. And during that, at least the one break,  
11 you were allowed to step outside and smoke a  
12 cigarette, correct?

13 A. Yes.

14 Q. You did that with Lieutenant Brown?

15 A. Yes.

16 Q. And they -- you knew at that point in time  
17 that if you wanted to stop talking to them that you  
18 could, correct?

19 A. I felt like I shouldn't.

20 Q. And despite your feeling that you  
21 shouldn't, you knew that you could, correct?

22 A. I knew that I could.

23 Q. Was it during that interview that they  
24 asked you to write down a time line of what you

380

1 recalled happening the week of Jennifer's murder?

2 A. I'm not sure when he asked me to do that.

3 Q. Do you recall during an interview with  
4 Freesmeyer and Brown that they asked you to do  
5 that?

6 A. Yes.

7 MS. EKL: Let's go ahead and mark this  
8 Exhibit No. 8.

9 (Whereupon, Beaman Deposition  
10 Exhibit No. 8 was marked for  
11 identification.)

12 BY MS. EKL:

13 Q. I'm asking you to take a look at what I've  
14 put before you, which has been marked as Deposition  
15 Exhibit No. 8. Do you recognize that document?

16 A. Yes.

17 Q. And what do you recognize this to be?

18 A. This was the -- this was the paper  
19 Freesmeyer asked me to write out giving my  
20 whereabouts for the week.

21 Q. And does this document all contain your  
22 handwriting?

23 A. It looks like it's all my handwriting,  
24 yes.

381

1 Q. And you knew at the time that you prepared  
2 this time line that it was important to be as  
3 accurate as possible, correct?

4 A. I was giving him the best of my  
5 recollection.

6 Q. But that was to the -- you were trying to  
7 be as accurate as you could, to the best of your  
8 recollection, correct?

9 A. Yes.

10 Q. Is there anything in this time line that  
11 you now believe is inaccurate?

12 A. I think I may have gone to work a little  
13 earlier than some of these times.

14 I -- from my understanding of the record,  
15 the phone call with Jennifer might have been longer  
16 than five minutes. It's missing the trip to the  
17 bank. Obviously, it's not going to be complete. I  
18 don't remember everything.

19 Q. Back at the time that you created this,  
20 did you know when it was that it was believed that  
21 Jennifer had been killed, what day?

22 A. No.

23 Q. Is it fair to say that at least in this  
24 time line -- well, did you later learn at some

382

1 point it was believed that Jennifer was killed on  
2 Wednesday?

3 A. I did later learn that, yes.

4 Q. Okay. Your time line for Wednesday  
5 starts -- it says ice cream social 7:00 o'clock,  
6 correct?

7 A. Yes.

8 Q. That was 7:00 o'clock p.m., correct?

9 A. Yes.

10 Q. This is the time line that was presented  
11 to the Grand Jury, correct?

12 A. It's in discovery.

13 Q. Do you recall that this document was shown  
14 to you when you testified before the Grand Jury?

15 A. I don't remember specifically what  
16 documents were shown to me.

17 Q. You can go ahead and put that aside. Do  
18 you again recall talking to Detective Freesmeyer  
19 and Lieutenant Brown on October 22nd of 1993?

20 A. I don't remember specific dates of when I  
21 talked to them.

22 Q. Do you remember an occasion where they  
23 came to your dorm to talk to you?

24 A. They may have -- I think they came to pick

383

1 me up maybe. I mean, they showed up at my dorm  
2 more than once but --

3 Q. Do you remember them picking you up at  
4 your dorm and then taking you to the State's  
5 Attorney's Office?

6 A. Yes.

7 Q. Okay. And was that an occasion that took  
8 place after the time line -- the time when you made  
9 the time line --

10 A. I believe so.

11 Q. Okay. And on that occasion when they came  
12 to your dorm, you agreed again to talk to them,  
13 correct?

14 A. Yes.

15 Q. And you knew on that particular day, as  
16 well, that you did not have to go with them,  
17 correct?

18 A. Again, I didn't feel like it was the  
19 responsible thing to do to not go.

20 Q. Well, in fact, you had been advised by  
21 your attorney not to go with the police and not to  
22 talk to the police, correct?

23 A. Yes.

24 Q. And you had been advised by your father

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1 not to talk to the police, correct?

2 A. I don't remember specifically if my father  
3 advised me that or not.

4 Q. And in fact, when you were talking to  
5 Freesmeyer and Brown, they again on that occasion  
6 informed you that you did not have to go with them,  
7 correct?

8 A. I don't remember specifically if they  
9 informed me on that occasion or not.

10 Q. In any event, you did agree to talk to  
11 them, correct?

12 A. Yes.

13 Q. And you went with them to the State's  
14 Attorney's Office?

15 A. Yes.

16 Q. How is it that you got to the State's  
17 Attorney's Office?

18 A. I believe Tim Freesmeyer drove us there.

19 Q. And you were not in handcuffs during that  
20 occasion, correct?

21 A. No.

22 Q. What do you recall about the interview at  
23 the State's Attorney's Office?

24 A. I remember I walked into the office. I

385

1 sat down. And Lieutenant Brown immediately started  
2 barking at me, why don't you tell us that you did  
3 it.

4 And I felt that he was being combative and  
5 inappropriate. And so I left.

6 Q. And they didn't try to stop you when you  
7 left, correct?

8 A. Tim Freesmeyer did.

9 Q. And how did he do that?

10 A. He followed me down to the lobby, I  
11 believe, as I was leaving the courthouse. And he  
12 told me that I should really try to just talk to  
13 them.

14 Q. He didn't tell you that you had to talk to  
15 them, correct?

16 A. No.

17 Q. Is it a fair characterization that he just  
18 tried to convince you that because -- that he just  
19 tried to convince you to come back and talk to  
20 them, correct?

21 A. Yes.

22 Q. And you knew that despite him coming down  
23 trying to convince you that -- to come back up that  
24 you didn't have to, you could leave and go home,

386

1 correct?

2 A. Yes.

3 Q. Okay. The room that you were in -- that  
4 you were brought into, was that -- could you  
5 describe what type of room that was?

6 A. It was an office.

7 Q. Do you know whose office it was?

8 A. I really don't remember.

9 Q. At any point in time on that day,  
10 October 22nd, 1993, did you have any occasion to  
11 meet any Assistant State's Attorneys?

12 A. At any time on that day, you mean?

13 Q. On that day.

14 A. I don't think so.

15 Q. Is it fair to say that the only two people  
16 you talked to in the State's Attorney's Office, at  
17 least substantively, were Lieutenant Brown and  
18 Detective Freesmeyer?

19 A. Yes.

20 MR. BOWMAN: Are you asking on that day?

21 MS. EKL: On that day.

22 BY MS. EKL:

23 Q. After Detective Freesmeyer tried to

24 convince you to talk some more to them, did you, in  
387

1 fact, go back up and talk to them or did you leave?

2 A. I left.

3 Q. When was the next time you spoke to any  
4 officers?

5 A. I couldn't tell you specifically when.

6 Q. Do you recall being interviewed by  
7 Detective Freesmeyer several days later on  
8 October 27th, 1993?

9 A. Again, I don't remember specific dates of  
10 when I talked to him.

11 Q. Where was the next location that you can  
12 remember talking to Detective Freesmeyer after the  
13 State's Attorney's Office?

14 A. All of my encounters with Tim Freesmeyer  
15 are pretty jumbled together as far as timing.

16 Q. Do you remember an occasion where  
17 Freesmeyer told you that he needed to talk to you  
18 but that it would only take about five minutes?

19 A. No.

20 Q. Do you remember him telling you that you  
21 were going to be arrested and that probable cause  
22 existed?

23 A. I think -- yeah, I remember him saying  
24 something like that.

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1 Q. And what was your reaction to his  
2 statement?

3 A. I was offended.

4 Q. Did you say anything in response to him?

5 A. I think there were more than one occasion  
6 when he threatened me with arrest. I'm not sure  
7 which occasion this is so --

8 Q. Well, when you say threatened you with  
9 arrest, did he say anything more than the fact that  
10 you were going to be arrested or -- what do you  
11 mean by threatened?

12 A. Well, he -- I think at -- I think at one  
13 point, he suggested that I would get the death  
14 penalty if I didn't confess.

15 Q. When did he suggest that?

16 A. I -- we were in my dorm room.

17 Q. So would this have been on some later  
18 occasion?

19 A. I don't know which occasions were which.

20 Q. You never admitted to Tim Freesmeyer that  
21 you, in fact, had killed Jennifer Lockmiller,  
22 correct?

23 A. I have never confessed to  
24 Jennifer Lockmiller's death, no.

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1 Q. To anyone, correct?

2 A. No.

3 Q. Did you admit to Detective Freesmeyer that  
4 you had a motive to kill her but deny that you had  
5 actually killed her?

6 A. I don't remember a conversation where I  
7 admitted to having a motive.

8 Q. Would you agree as you sit here today that  
9 you had a motive to have killed her, despite the  
10 fact that you did not kill her?

11 A. I don't think I had a motive to kill her,  
12 no.

13 Q. Do you remember anything specific about  
14 any conversations you had with police in September  
15 and October of 1993, other than what we've already  
16 talked about?

17 MR. BOWMAN: I'm sorry. I need that one back,  
18 too.

19 (Whereupon, the record was read.)

20 MR. BOWMAN: Objection. Vague and overbroad.  
21 You can answer if you --

22 THE WITNESS: I -- I'd have to go through the  
23 record and look at the police reports. I really  
24 don't remember specifics of how many times or when

390

1 or any of that.

2 BY MS. EKL:

3 Q. Do you remember providing a set of  
4 fingerprints to Detective Freesmeyer in February --  
5 on February 16th of 1994?

6 A. That was at the Morton Crime Lab?

7 Q. You recall that?

8 A. Yes.

9 Q. Was anyone else present for that?

10 A. If it's the occasion I'm thinking of, he  
11 drove -- he drove me to Morton and there were  
12 fingerprint experts there -- I think there was more  
13 than one that were involved in taking fingerprints  
14 from me.

15 Q. Did you have any conversations with  
16 Freesmeyer on that occasion about  
17 Jennifer Lockmiller or your involvement in her  
18 murder?

19 A. Well, I was not involved in her murder,  
20 but I did talk to Freesmeyer about -- I answered  
21 his questions. He asked me things. I don't really  
22 remember what all he asked me.

23 Q. All right. As far as your answering his  
24 questions, you knew at that point in time, similar

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1 to the prior interviews, that you did not have to  
2 answer his questions, correct?

3 A. Yes, I knew that I did not have to answer  
4 his questions.

5 Q. At some point in February, you were also  
6 asked to submit to a polygraph, correct?

7 A. At some point. I don't remember exactly  
8 when but --

9 Q. And you're -- that's when you said that  
10 your attorney advised you against taking the  
11 polygraph, correct?

12 A. Yes.

13 Q. You were arrested on May 16th of 1994?

14 A. I don't remember the specific date. It  
15 sounds right.

16 Q. Okay. What do you recall about that?

17 A. I had finished my last final. And I had  
18 gone to the dining hall at the school. And as I  
19 was leaving, Tim Freesmeyer was walking in. And he  
20 asked me if I would come out and talk with him. So  
21 I did.

22 When we got outside, he told me that I  
23 needed to come with him to the police station and  
24 that I was going to be arrested. I told him, well,

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1 I'm not going to go with you if you're not  
2 arresting me now.

3 And so he handcuffed me and arrested me  
4 there, put me in his car, and he drove me back to  
5 the police station in Normal.

6 Q. How would you describe your reaction when  
7 he told you that you were going to be arrested on  
8 that day?

9 A. I was stunned.

10 Q. Did you make any other statements to him  
11 at the time that he arrested you that you can  
12 recall?

13 A. I think I chewed him out.

14 Q. And what specifically did you say to him?

15 A. At some point, I think I told him I was  
16 going to sue him.

17 Q. Do you remember saying I'm going to sue  
18 the shit out of this whole place?

19 A. Something to that effect, yes.

20 Q. And in fact, in the car on the way to --  
21 in fact, in the car on the way to the McLean County  
22 Jail, you asked Freesmeyer what was the last  
23 recompense for wrongful arrest the guy got awarded,  
24 \$2 million, something like that? Do you remember

393

1 asking him that question?

2 A. I don't specifically remember that  
3 question but --

4 Q. Were you -- had you become aware of other  
5 people suing the police for wrongful arrests prior  
6 to that date?

7 A. I think I had heard about it.

8 Q. And you heard that people got money for  
9 suing the police for wrongful arrest?

10 A. I remember something about that, yeah.

11 Q. So is it fair to say you were not just  
12 upset by the fact that you were being arrested, you  
13 were very angry, too?

14 A. I was extremely angry, yes.

15 Q. You were transported and processed at the  
16 county jail in McLean County, correct?

17 A. Yes.

18 Q. How many days did you spend in the McLean  
19 County Jail before you bonded out?

20 A. I believe it was 10.

21 Q. During that 10-day period, do you recall  
22 ever seeing a therapist from the Center For Human  
23 Services?

24 A. They had some kind of counselor there at

394

1 the jail that I think I saw more than once.

2 Q. And why did you see that person?

3 A. If it's -- if I -- if it's the same person  
4 I'm thinking of, she was also the one that was  
5 doing like an inprocessing interview of some sort  
6 to classify me, place me within the jail.

7 And then, later on, I saw her because I  
8 was having great emotional difficulty dealing with  
9 the jail environment.

10 Q. And is it fair to say that at that point  
11 in time, you were experiencing feelings of anger,  
12 that you were upset, and that you were experiencing  
13 feelings of frustration?

14 A. I was angry, I was frustrated, I was  
15 confused, I was terrified.

16 Q. And those were all things that you told  
17 the therapist?

18 A. Yes.

19 Q. What was the basis for feeling angry and  
20 upset?

21 A. I was being unfairly accused.

22 Q. Did you express that to the --

23 A. I was --

24 Q. Sorry.

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C03908

1           A.    I was being subjected to a harsh  
2 environment, where I had no experience, and I was  
3 distraught.

4           Q.    What did you do to cope with those  
5 feelings?

6           A.    I tried to -- I tried to watch the TV.  
7 They had a TV in there. I tried to detach from  
8 some of it.

9                    I had a wall up as far as what I wanted to  
10 express and let myself feel, but it was so foreign  
11 to me, it was really difficult to do anything to  
12 cope.

13           Q.    Is it fair to say that the longer you were  
14 in there, the more anger you got?

15           MR. BOWMAN: The longer he was in the McLean  
16 County Jail?

17           MS. EKL: Yes.

18           MR. BOWMAN: That first time before he bonded  
19 out?

20           MS. EKL: During those nine days.

21           MR. BOWMAN: Okay.

22           THE WITNESS: I really couldn't judge the level  
23 of anger. I think I -- I really wouldn't be able  
24 to say.

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1 BY MS. EKL:

2 Q. On May 26 of 1994, is it fair to say that  
3 you grew so angry and frustrated that you  
4 repeatedly hit your head on a shower?

5 A. I know at some time, I was hitting my head  
6 against something.

7 Q. What do you remember about that?

8 A. I -- my memory is hazy about all of it,  
9 because I was so confused during that time and  
10 terrified. And I know that they separated me and  
11 put me in a separate room where it was easier to  
12 observe me.

13 Q. This was after you hit your head, correct?

14 A. I -- I don't know when exactly, but I  
15 think it was after that, yes. I -- because I was  
16 in that room when I bonded out.

17 Q. You recall that at the time that you were  
18 hitting your head, it was at a point in time when  
19 you were extremely angry, correct?

20 A. I think I was -- I think I had just found  
21 out that there was difficulty in dealing with my  
22 bond, because they couldn't find my passport. And  
23 I was frustrated and I was terrified.

24 Q. What were you hoping to accomplish by

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1 hitting your head against the wall?

2 A. I don't know.

3 Q. Were there other occasions in your life  
4 prior to the McLean County Jail where you had  
5 expressed anger or frustration in the same manner,  
6 meaning that you had hit your head against the wall  
7 because you were angry or frustrated?

8 MR. BOWMAN: I have to object. That's not  
9 proper as to form, because you're -- if it's  
10 looping in prior testimony, it does so  
11 inaccurately. You can answer to the best of your  
12 ability.

13 THE WITNESS: I have occasionally in the past,  
14 yes, hit my head against a wall or a door or  
15 something like that in frustration.

16 BY MS. EKL:

17 Q. Could you describe some of those  
18 instances?

19 A. When I was first in the county jail, I was  
20 placed in a holding cell. And I was hitting my  
21 head against the glass partition in there.

22 Q. And why did you do that on that occasion?

23 A. I was desperately pleading with anybody  
24 that would listen to please let me out. And I

398

1 think in that instance, I perhaps was trying to  
2 appeal to their sense of compassion.

3 Q. Is it fair to say that it was the same  
4 sort of situation in terms of -- can you compare it  
5 at all to the instance where you took the  
6 fingernail polish remover and drank it to try to  
7 appeal to Jennifer's sense of compassion? Is it  
8 the same sort of thought process?

9 MR. BOWMAN: Objection to the form. Again, you  
10 know, it misstates the prior testimony and it's not  
11 a proper question.

12 THE WITNESS: I don't think I could compare it  
13 to that particular incident.

14 I don't know what I was appealing to  
15 necessarily with Jennifer. I think I was with --  
16 in that situation -- I suppose you could say I was  
17 appealing to her sense of compassion in that  
18 situation. I really just don't know.

19 BY MS. EKL:

20 Q. Going back then to the incident in the  
21 jail, am I fairly characterizing it by saying you  
22 were hitting your head in order to try to get  
23 people on the other side of the jail cell to feel  
24 sorry for you and to let you out?

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1 A. That may be true. I really don't know. I  
2 was --

3 Q. Did you cause injury to yourself on that  
4 occasion?

5 MR. BOWMAN: Had you finished answering? You  
6 said you --

7 MS. EKL: I'm sorry.

8 MR. BOWMAN: I don't know that the prior answer  
9 was complete. Maybe it was.

10 THE WITNESS: I would just have said that I  
11 don't think my state of mind during the time I was  
12 in the county jail was -- I don't think I would  
13 have been able to collect my thoughts and attempt  
14 to do much of anything. I don't know. I was  
15 terrified. I was --

16 BY MS. EKL:

17 Q. What other prior occasions -- and other  
18 than -- so we've talked about the time when you  
19 were in the shower. You described the prior  
20 incident in the jail cell when you first got in  
21 there.

22 And you said that there were several  
23 occasions. When was another occasion where you had  
24 hit your head out of frustration or anger?

400

1           A.    Well, when I was in high school, there was  
2 a door in the theater. And when I was -- when I  
3 was particularly frustrated with something, I would  
4 sometimes hit my head on that door.

5           Q.    And could you describe in a little bit  
6 more detail how it is that you would hit your head?

7           A.    Just sort of thumping it against the door,  
8 not intending to do harm to myself but I guess  
9 acting out my frustration.

10          Q.    When you would hit your head, would you  
11 hit the front portion of your head or the back  
12 portion? How would you do that?

13          A.    My forehead, yes.

14          Q.    And on those occasions, would you hit it  
15 more than once or just one time?

16          A.    I suppose it depended on how frustrated I  
17 was.

18          Q.    How many times do you think in high school  
19 you hit your head on the door frame out of -- or  
20 on -- was it the door or the door frame?

21          A.    It was the door.

22          Q.    On the door out of frustration?

23          A.    I couldn't say.

24          Q.    Can you approximate?

401

1 A. Somewhere in the neighborhood of 10 maybe.

2 Q. On any of those occasions, did you cause  
3 any injury to your head?

4 A. I don't think so, no.

5 Q. And when you would hit your head on the  
6 door at the theater, were those occasions where  
7 other people were around?

8 A. I really couldn't say specifically if  
9 there were occasions where there were or weren't  
10 people around.

11 I think, yes, there were some occasions  
12 where people were around. I don't -- I wouldn't be  
13 able to differentiate them.

14 Q. Were there other times, other than now in  
15 high school, prior to your arrest when you would --  
16 when you've hit your head out of frustration or  
17 anger?

18 A. I'm not remembering any specific ones, no.

19 Q. Do you recall an occasion when you hit  
20 your head in Jennifer's apartment, specifically in  
21 her living room?

22 A. I think I did do that once, yes.

23 Q. What do you recall about that occasion?

24 A. I think I put a small dent in the drywall.

402

1 Q. What were the facts or what were the  
2 circumstances that led to you hitting your head on  
3 her living room wall?

4 A. I don't remember specifically what led to  
5 that. I -- if I recall, it was -- there was an  
6 argument. And I was feeling like it was a no-win  
7 situation and I was frustrated and I hit my head on  
8 the wall.

9 Q. And you're aware that there were some  
10 other holes in other walls in her apartment,  
11 specifically in her bedroom, correct?

12 A. Yeah, there was a hole in the wall in the  
13 bedroom.

14 Q. Do you know how the hole in the wall in  
15 her bedroom occurred?

16 A. I don't -- I don't remember off the top of  
17 my head right now. That did not come from my  
18 forehead. I'm not sure -- I don't think I put it  
19 there.

20 I think that resulted from Jennifer  
21 slamming a door or throwing something or something  
22 like that. I can't remember.

23 Q. Do you remember testifying in the past  
24 that Jennifer threw some kind of vase or something

403

1 or some kind of item at the wall when -- but aiming  
2 toward you and it hit the wall?

3 A. That sounds familiar, yes.

4 Q. And it caused a hole into her wall?

5 A. Yeah.

6 Q. In addition to -- well, let me -- were  
7 there any other times that we haven't talked about  
8 that you can recall hitting your head on the wall?

9 A. I don't have a specific knowledge of a  
10 specific memory of any other times.

11 Q. In addition to hitting your head on the  
12 wall, were there other times where you kicked holes  
13 in any walls out of frustration and anger?

14 A. I don't remember kicking holes in any  
15 walls. I -- I don't remember.

16 Q. And do you remember in the past after that  
17 incident involving Michael Swaine going to  
18 Jennifer's apartment, coming back to your own  
19 apartment, and kicking a hole in the wall?

20 A. I'd have to look at the record and see if  
21 something was in there about that, but I really  
22 don't remember.

23 Q. And I'm taking aside --

24 A. I think there is something in there about

404

1 that, but I don't remember specifically.

2 Q. You don't recall as you sit here today  
3 doing that?

4 A. Right.

5 Q. We've talked a bit earlier today about the  
6 photograph and the receipts from your car.

7 Is it accurate that those things were not  
8 produced to the police until after you were  
9 arrested?

10 A. I really don't remember how that  
11 transpired. I believe that's correct, but I really  
12 don't remember for sure.

13 Q. And by the time of your arrest, those  
14 things had been in the possession of you or your  
15 family members, including your attorneys --

16 A. I didn't have possession of any of it  
17 but --

18 Q. -- for several months?

19 A. My understanding is that my attorney had  
20 possession of it.

21 Q. You were provided a full bond hearing on  
22 May 25th of 1994, correct?

23 A. I had a bond hearing.

24 Q. A number of witnesses testified on both

405

1 sides?

2 A. I don't know about both sides. A number  
3 of witnesses testified. I really don't remember  
4 how many testified for either side.

5 Q. You recall that you were allowed to  
6 call -- at least your attorney was allowed to call  
7 witnesses on your behalf, correct?

8 A. Yes.

9 Q. And witnesses did testify on your behalf?

10 A. Yes.

11 Q. And evidence was presented on your behalf?

12 A. I believe so.

13 Q. And one of the things that was presented  
14 was that letter that we've marked as Deposition  
15 Exhibit No. 6, the letter from Investigator Pickett  
16 regarding the distances that you traveled in your  
17 car, correct?

18 A. Again, I don't remember what was  
19 presented.

20 Q. Are you aware that after your bond  
21 hearing, your father took your car to someone to  
22 have them look at it to determine if the odometer  
23 had been tampered with?

24 A. I don't remember that. I know that there  
406

1 were investigators that had looked at it at some  
2 point but --

3 Q. Do you know that investigators from the  
4 defense side, from your side had looked at it?

5 A. I knew that we had an expert. I think we  
6 had an expert, but I don't remember beyond that  
7 what was done.

8 Q. Do you know why that expert looked to see  
9 whether or not there was tampering?

10 A. I'm not -- I -- I don't know. I think we  
11 were accused of tampering with it.

12 Q. Did you ever tamper with or in any way  
13 fiddle with the odometer in your car?

14 A. No.

15 Q. Bond was eventually posted for your  
16 release, correct?

17 A. Yes.

18 Q. And do you recall that occurring on  
19 May 27th of 1994?

20 A. I don't remember the specific date but --

21 Q. Is there anything else specific, other  
22 than the instances that we already talked about,  
23 that you recall about your time in the McLean  
24 County Jail?

407

1 MR. BOWMAN: That's very vague. I object.

2 THE WITNESS: Can you be more specific --

3 MR. BOWMAN: It's too broad.

4 THE WITNESS: -- or --

5 BY MS. EKL:

6 Q. Sure. Sure. Well, actually, I'll come  
7 back to that.

8 You had a jury trial in this case,  
9 correct?

10 A. I did.

11 Q. And who was the judge that presided over  
12 that trial?

13 A. Judge Freese.

14 Q. Following the jury trial, you were  
15 convicted on July 14th of 1994?

16 A. I was convicted -- I was convicted on  
17 April 1st.

18 Q. Just checking to make sure you're paying  
19 attention. Sorry.

20 You were sentenced to 50 years with a  
21 credit for 45 days in the McLean County Jail,  
22 correct?

23 A. Yes.

24 Q. Prior to your conviction, had you had any

408

1 other arrests or convictions?

2 A. Are you -- I was once arrested as a minor.

3 Q. And tell me about that. What were the  
4 circumstances of -- well, first off, what were you  
5 arrested for?

6 A. Shoplifting.

7 Q. When was that?

8 A. It was before my senior year in high  
9 school, I think.

10 Q. And on that occasion, you were actually  
11 arrested for shoplifting pornographic magazines,  
12 correct?

13 A. Yes.

14 Q. Were you actually adjudicated guilty as a  
15 minor in that case?

16 A. I don't remember how all that went. I was  
17 sent home under the custody of my parents. And I  
18 went to see a parole officer and again went home  
19 under the custody of my parents.

20 So I really don't remember any  
21 adjudication process or how that works. I don't --

22 Q. Did you ever have to go to court to  
23 your -- the best of your recollection?

24 A. Not to court, no.

409

1 Q. How often did you see this parole officer?

2 A. Once.

3 Q. Any other arrests, even if they did not  
4 result in a conviction?

5 A. You're ruling out traffic stops --

6 Q. Right.

7 A. -- and things like that, right? No, there  
8 were no other arrests.

9 Q. Could you just briefly kind of describe to  
10 me by a time line the different correctional  
11 facilities that you were housed in after you were  
12 convicted of the murder of Jennifer Lockmiller?

13 A. I went to Joliet for receiving and  
14 classification. You just want which ones I went to  
15 in order?

16 Q. Right. Right. And if you can, if you  
17 know the dates, if you can approximate. If not,  
18 that's fine.

19 A. I can tell you roughly. I think I was in  
20 Joliet for a week or two.

21 And then, I went to Menard Correctional  
22 Center. And I was there for about -- a little over  
23 two years. And then, I was in Pontiac Correctional  
24 Center for about a month and a half.

410

1           And then, I was in Stateville for I think  
2 a little over three years, where I finally  
3 qualified for medium security and went to Western  
4 Illinois Correctional Center in Mount Sterling.

5           And then, from there, I went to Dixon. I  
6 was in Dixon for about five years.

7           Q.   Starting with Joliet, do you recall any of  
8 your -- the names of your cellmates while you were  
9 at Joliet?

10          A.   I've handed over the best of my  
11 recollection of that in an interrogatory. I mean,  
12 I -- to sit here and try to spout names, I don't  
13 know if that's efficient.

14          Q.   Well, is there anything beyond what you  
15 put in the interrogatory that you can recall in  
16 terms of names of cellmates that you had?

17          MR. BOWMAN: That's a little hard to answer  
18 without the interrogatory answer --

19          THE WITNESS: I --

20          MR. BOWMAN: -- in front of him, you know.

21          THE WITNESS: Yeah. Do you have it?

22          BY MS. EKL:

23          Q.   Well, I can't really answer questions but  
24 I don't.

411

1 A. I'm sorry.

2 Q. I didn't bring it today. I think I had it  
3 last time.

4 Let me ask you a different way. Are there  
5 any -- during any of your incarceration at any of  
6 these facilities, are there any particular  
7 cellmates that you have maintained contact with  
8 that you would say are people that are still --

9 A. There a few --

10 Q. -- acquaintances?

11 A. -- that I consider friends, yes.

12 Q. Okay. So of the people that you've either  
13 listed or that you can't recall, what are the names  
14 of the people that you were the closest to during  
15 the times that you were incarcerated?

16 A. One of the closest friends I had in the  
17 prison system was Kenneth Davis, Jr.,  
18 Udel Campos Castro, Richard Nelson, and  
19 Daniel Scheib.

20 Q. Where were you housed with Kenneth Davis,  
21 Jr.?

22 A. Stateville.

23 Q. And what about Udel?

24 A. Dixon.

412

1 Q. Where were you housed with Richard?

2 A. Dixon.

3 Q. And where were you housed with Daniel?

4 A. Also Dixon.

5 Q. And in addition --

6 A. Those would be the ones that I've kept in  
7 contact with the most.

8 Q. In addition to people that you have kept  
9 in contact with, were there certain people  
10 throughout the time that you were at any of the  
11 institutions with whom you would have considered,  
12 at least under the definition that is used in the  
13 prison system, as an enemy?

14 A. I believe I had an enemy on record in  
15 Menard.

16 Q. And who was that?

17 A. You'd have to look up the records. They  
18 probably have that information, but I -- what is  
19 his -- it's like Shorty G or something.

20 Q. Do you remember anything more specific  
21 about his name than that?

22 A. I want to say Michael Hodges. I don't  
23 know if that's it or not.

24 Q. Okay.

413

1 A. So --

2 Q. Okay. I won't hold you to it. What do  
3 you recall about the circumstances that caused  
4 Shorty G to be on your -- you --

5 A. Bad side?

6 Q. You and him to be enemies?

7 A. I had given him a roll of tape. And he  
8 refused to give it back to me. I was letting him  
9 use it. I wasn't giving it to him. And he refused  
10 to give it back to me.

11 And I got angry and I cussed him out. And  
12 we were on lockdown at the time. I think the next  
13 day or two, I even apologized for cussing him out.  
14 I thought, you know, I let you use the tape. If  
15 you used it all up, whatever. You know, I  
16 shouldn't be that upset about it.

17 And then, we came off of lockdown and we  
18 went to the showers. And he attacked me. He was a  
19 little guy. He wasn't anything I couldn't handle  
20 by myself, but I pushed him down, and then, one of  
21 his buddies jumped in. And you can't fight a whole  
22 gang.

23 Q. What did they do to you physically?

24 A. They beat me up.

414

1 Q. What injuries did you receive as a result?

2 A. Facial injuries, minor bumps on the rest  
3 of the body from falling down and whatnot, but I  
4 had stitches in both my upper and lower lip.

5 Q. How many people were involved in this?

6 A. There were two actually punching me.  
7 There were more standing around me.

8 And when I fell down, I felt like I was in  
9 the middle of a football huddle looking up at a  
10 bunch of guys who were letting me know that if I  
11 wanted to keep fighting, I'd have to fight all of  
12 them.

13 Q. To your knowledge, were Shorty G and the  
14 other individual involved or affiliated with a  
15 street gang?

16 A. To my knowledge, yes. I don't want to say  
17 the wrong gang, because I really -- I don't know  
18 for sure.

19 Q. Were you -- at any point in time when you  
20 were in the penitentiary, were you affiliated with  
21 any gangs --

22 A. No.

23 Q. -- for any point in time?

24 A. No.

415

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C03928

1 Q. You gave an interview since your release  
2 to a student from Northwestern, correct?

3 A. Yes.

4 Q. And do you recall describing to that  
5 student an incident where there -- you got into an  
6 altercation with someone in the chow line or  
7 someone was giving you a hard time in the chow line  
8 and you talked to them about fighting with them?  
9 Do you recall?

10 A. Oh. That wasn't in the chow line.

11 Q. Do you recall what incident I'm talking  
12 about?

13 A. I think I know what you're talking about,  
14 but that's -- that's -- I don't think you're  
15 stating it correctly.

16 Q. Okay. Well, tell me about the incident  
17 that you described to the Northwestern student.  
18 When did that take place?

19 A. I think you're talking about Stateville  
20 Correctional Center.

21 Q. Okay.

22 A. And there was a guy picking on me. I was  
23 a gallery worker. I was a janitor, basically.

24 And he wanted me to run errands for him.

416

1 And I would try while I was -- if -- I felt that if  
2 I was out, I would want -- I would want people to  
3 do that for me.

4 So I tried whenever I could -- if, you  
5 know, somebody wanted to give a Ramen Noodle to  
6 somebody else or something, I would try to do that  
7 for them.

8 Q. So would this be an instance where there's  
9 inmates who are in cells and they can't --  
10 basically, they're locked in their cells and you're  
11 on the outside?

12 A. Yes.

13 Q. Okay. And you're doing your job as a  
14 janitor?

15 A. Yes.

16 Q. And they want you to take things from cell  
17 to cell on their behalf?

18 A. Yes.

19 Q. Okay. And this individual, when you say  
20 he was picking on you, other than wanting you to  
21 run these errands for him, was there any other  
22 manner that you -- anything else he was doing?

23 A. He was swatting at me through the bars.  
24 He was calling me a punk. He was attempting to

417

1 goad me, maybe attempting to intimidate me.

2 He wasn't happy with the fact that I  
3 hadn't succeeded in carrying out the errand he  
4 wanted carried out and asked me if I was in a gang.  
5 I said no. That's a paraphrase.

6 Q. Do you recall the specific words that he  
7 used?

8 A. What you is. And I told him I'm neutron,  
9 which is someone who's not in a gang.

10 And he made himself a persistent nuisance  
11 to me in that way. And I felt that it was unsafe  
12 for me to let him continue to do that and I needed  
13 to put a stop to that.

14 Q. And how did you do that?

15 A. I knew that he was a Vice Lord. I  
16 approached some Vice Lords that I knew. And  
17 because it was mostly Vice Lords living on that  
18 gallery, I was around a lot of them.

19 And I was the one that moved the phone  
20 around on the gallery. And I asked the chief of  
21 the Vice -- well, I don't know if he was the chief  
22 but a Vice Lord I knew that seemed to have a lot of  
23 respect, because I knew that if he started  
24 something with me, you can't fight a whole gang.

418

1 So I asked --

2 Q. Meaning -- and just to make sure I  
3 understand, you're saying so if he started  
4 something with you, your fear was if you started  
5 something back that the rest of the gang would jump  
6 in?

7 A. If I defended myself, I would -- the rest  
8 of the gang would jump in, yes.

9 Q. Okay.

10 A. And I felt that if I allowed him to  
11 continue being disrespectful toward me in the way  
12 that he was that that would put a bullseye on my  
13 back.

14 And in the prison system, if somebody  
15 calls you a punk and you don't hit them, you're a  
16 punk. And you don't want to be a punk.

17 So I went to his guys that I knew. And I  
18 explained to them the situation. And I asked if I  
19 could have a one-on-one fight, a polite request to  
20 try to get this thing over with and deal with it.

21 They told me that, well, we can't let, you  
22 know, our guy fight a white guy by himself and that  
23 could get misinterpreted. And so they said that  
24 they would talk to him and that he wouldn't bother

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**C03932**

APPENDIX 000793

1 me again.

2 So I accepted that. And a couple days  
3 later, he was right back at it again. And so I  
4 asked them again. And they said, okay, well, we'll  
5 talk to him again, and even if we got to beat him  
6 up ourselves, he's not going to mess with you  
7 anymore.

8 THE VIDEOGRAPHER: I'm sorry. Could you say  
9 that last part again?

10 THE WITNESS: They said we'll talk to him  
11 again, and even if we got to beat him up ourselves,  
12 he's not going to mess with you anymore.

13 THE VIDEOGRAPHER: Thank you. Sorry.

14 BY MS. EKL:

15 Q. And do you know why they offered to beat  
16 him up? He was -- well, let me back up.

17 Was -- this individual that you were  
18 having a problem with, was he a member then,  
19 obviously, of the street gang that you were talking  
20 to?

21 A. That was my understanding of it, yes.

22 Q. Okay.

23 A. Yes.

24 Q. And do you know why the chief or the

420

1 people that were -- is it fair to say more in power  
2 in that gang?

3 Is that a fair characterization of those  
4 people you were talking to?

5 A. Yes.

6 Q. Do you know why it is that they would be  
7 willing to basically back you and take care of it  
8 with him?

9 A. My perception of it is that they felt that  
10 he was in the wrong, that I was in the right, and  
11 that when they had already instructed him to leave  
12 me alone and he didn't that that was a violation of  
13 their code and that if he was not going to observe  
14 his own codes that he was a liability to them.

15 Q. Did you ever end up having any type of  
16 physical altercation with that individual?

17 A. I did not. I was told that the next time  
18 he messed with me that I could go ahead and fight  
19 him right then and there and that they had told him  
20 that. And he never bothered me again.

21 Q. Other than the altercation in the jail  
22 that you described -- I mean -- I'm sorry.

23 In the shower that you described, was  
24 there any other physical altercation that you had

421

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C03934

APPENDIX 000795

1 with anyone while you were incarcerated?

2 A. Not to that extent.

3 Q. At the time that you had that physical  
4 altercation in the shower, that was -- where -- do  
5 you recall where you were at in terms of your  
6 criminal proceedings?

7 A. It was -- it was a few months after I went  
8 to the prison system.

9 Q. Did you have photographs taken of yourself  
10 after you were beat up in the pris -- in the  
11 shower?

12 A. I was photographed in the visiting room,  
13 yes.

14 Q. Okay. And who was it that took those  
15 photographs?

16 A. One of the -- it's -- there's a prisoner  
17 that has a Polaroid. And you purchase photographs  
18 from them. It's a fundraising thing for events  
19 inside the prison.

20 Q. What happened to those photographs after  
21 they were taken?

22 A. I think Simone or my parents -- somebody  
23 took them to Bill Beu. And then, he called the  
24 institution and they placed me in protective

422

1 custody.

2 Q. And do you recall, despite the fact that  
3 it was an unpleasant situation in the shower,  
4 thinking that this was something that you could  
5 then use to your advantage in your criminal  
6 proceedings?

7 A. I was more concerned about making sure I  
8 didn't get beaten up again.

9 Q. Regardless of what you were more concerned  
10 about, do you remember thinking that there was a  
11 way that you could use this to your advantage?

12 A. I don't specifically remember thinking  
13 about that at the time. I -- my focus on the  
14 criminal case was to prove I didn't do it.

15 Q. Do you recall telling anyone that you  
16 could use those photographs to your advantage with  
17 the judge?

18 A. I don't remember telling anybody that.  
19 I -- I don't remember.

20 Q. I'm sorry. I know I just asked you this,  
21 but were there -- you said there weren't any other  
22 physical altercations that you had with anyone, at  
23 least not to that extent. Was it --

24 A. Nothing to that -- nothing that had me in

423

003936

1 the health care facility seeking medical attention.

2 Q. Were there ever any occasions where you  
3 were involved in a physical altercation where the  
4 other person received injuries?

5 A. No.

6 Q. Throughout your time at any of those  
7 institutions, did you have jobs in addition to when  
8 you were a janitor at Stateville?

9 A. I had other jobs, yes.

10 Q. And what other jobs did you have in the  
11 prison system?

12 A. In Menard, I worked in the commissary for  
13 a little while.

14 Q. And what were your duties there?

15 A. Take orders from prisoners who were going  
16 through the commissary line asking for specific  
17 items to be put in their shopping box, and then,  
18 also, to stock shelves and to take orders that were  
19 written down, as well, and pack those orders.

20 Q. Were you compensated at all for that job?

21 A. Yes.

22 Q. And how were you compensated?

23 A. I believe that job paid \$45 a month. And  
24 I was allowed to smoke all of the cigarettes that I

424

1 wanted to while I was at work.

2 Q. So it would be fair to say that was a  
3 pretty good job to have at the time?

4 A. It was a coveted job, yes.

5 Q. Any other jobs while you were at Menard  
6 other than the commissary?

7 A. I also worked as a floor maintenance  
8 person, waxing and buffing, that sort of thing in  
9 the dining hall.

10 And then, I worked in the kitchen as a  
11 breakfast cook. And then, I worked on the serving  
12 line in the kitchen after I refused to take that  
13 job back.

14 Q. After you refused to take which job back?

15 A. The kitchen cook job.

16 Q. When did you -- explain that -- what you  
17 mean by that.

18 Where were -- when were you a kitchen  
19 cook, and then, when did you refuse to go back to  
20 it?

21 A. I was a kitchen cook. And we were not  
22 giving -- being given any days off. We were  
23 supposed to be getting at least one day off every  
24 week. We were only being given the day off, I

425

1 think, once a month at the time.

2 And then, the -- one of the supervisors  
3 said, you know, I'm not going to be able to give  
4 you any days off for a while.

5 And everyone accepted that, under the  
6 understanding that by a certain time that that  
7 would change, that, you know, when they -- they  
8 were able to hire the people they needed to hire,  
9 it would change.

10 And it didn't change. And I confronted  
11 the supervisor. And he chewed me out. So I chewed  
12 him out back. And he wrote me a ticket. And the  
13 ticket was heard and they treated it as a minor  
14 offense. They offered me my job back. And I said  
15 I really don't want to work there anymore.

16 Q. How long were you in commissary out of the  
17 two years that you were at Menard?

18 A. A few months.

19 Q. Where did you spend -- what job did you  
20 have for the majority of the time you were there?

21 A. I would say that with the exception of the  
22 serving line job that they were pretty evenly  
23 spread out among -- around the time that I was in  
24 protective custody.

426

1 Q. And I may have misheard you so -- I  
2 thought that you had indicated that you went into  
3 protective custody as a result of that incident --  
4 oh, I'm sorry. That was with Shorty G that you  
5 went into --

6 A. Yes.

7 Q. -- protective custody. Okay. Okay. What  
8 was the difference between being in protective  
9 custody and being in general population?

10 A. General population was an open joint. It  
11 was gangs in charge of the institution. It was the  
12 gangs determining who lives in what cell and their  
13 bylaws being the peace-keeping factor inside. It  
14 was a dangerous environment for somebody who was  
15 not in a gang.

16 When I first got to the West House in  
17 Menard, I was encouraged by a counselor to join a  
18 gang, that that would be my best way to survive.

19 I didn't agree. I had been certain that  
20 joining a gang would get me into trouble. And so I  
21 chose not to.

22 In protective custody, it's still prison,  
23 it's still a maximum security prison and there are  
24 still people around you that you can't trust that

427

C03940

1 you have to guard yourself against, but the gang  
2 element is subdued.

3 Q. Were you aware of that before you went  
4 into protective custody?

5 A. I'm not sure how much I knew about -- I  
6 had never been to protective custody before. I  
7 didn't really understand it. I just knew that it  
8 was supposed to be safer.

9 Q. Did you, at least in hindsight, either  
10 consciously or unconsciously do anything to provoke  
11 that incident in the shower to give you a reason to  
12 be put into protective custody?

13 A. No.

14 Q. Prior to that incident, did you ask to be  
15 put into protective custody?

16 A. Yes.

17 Q. And were you told anything in response to  
18 your request?

19 A. I was asked if I had particular enemies.  
20 And I said no, I don't. And so I was placed in the  
21 kickout gallery.

22 Q. And what -- the kickout gallery is general  
23 population?

24 A. It's a step between requesting protective

428

1 custody and going back to the kickout gallery.

2 Q. Why was it -- do you know why it was that  
3 you were transferred from Menard to Pontiac?

4 A. I requested it.

5 Q. And why did you request the transfer?

6 A. I was told that if I transferred to  
7 Pontiac that I would receive a similar job to what  
8 I was working in Menard. I would be closer to home  
9 and I would receive a \$10 raise.

10 Q. What was the job you were working at the  
11 time that you left Menard that you were hoping to  
12 get that would be similar?

13 A. I was line serving in the kitchen. I was  
14 trying to get closer to home, basically.

15 Q. So was line serving also considered a  
16 pretty good job at the time?

17 A. Not really. It paid less and it -- I  
18 guess the good thing about it was that it was not  
19 an all-day job.

20 Q. And did Pontiac -- when you transferred to  
21 Pontiac, was it what you expected it to be?

22 A. No.

23 Q. What -- describe your time in Pontiac, how  
24 it was different from Menard, if at all.

429

1           A.    I found out that the only people that  
2    could have jobs were people that were in protective  
3    custody.

4           Q.    So when you transferred to Pontiac, you  
5    were no longer in protective custody, correct?

6           A.    Correct.

7           Q.    Could you describe further how it was  
8    different -- once you were in general population,  
9    how that was different from how your time was in  
10   Menard?

11          A.    By the time I got to Pontiac, there had  
12    been a crack-down on the way general populations  
13    operated in the prison system. And it was much --  
14    the gangs were in less control of the environment  
15    at that point.

16                    It was still an obvious element of the  
17    environment, but it was not -- you didn't need to  
18    have approval from a gang member or a gang chief to  
19    live in a certain cell anymore or that sort of  
20    thing.

21          Q.    Was it -- before you went to Pontiac or at  
22    some point in time, was the change due at all to  
23    the things that came about in regard to  
24    Richard Speck?

430

1 A. Yeah, it was the Richard Speck publicity  
2 incident that caused the crack-down.

3 Q. And from an inmate's perspective, although  
4 you no longer had to get approval from the gangs to  
5 live in certain cells, were there certain things  
6 that were allowed when the gangs were in control  
7 that weren't allowed after there was a crack-down?

8 A. There -- before the crack-down, there had  
9 been -- there was more yard privilege. There was  
10 more -- they had picnics, where your family could  
11 come in and visit in a picnic environment.

12 I never -- I never attended one of those,  
13 but there -- privileges were much more -- across  
14 the board much more stringent.

15 Q. At what point? Before or after?

16 A. After the crack-down.

17 Q. Okay. At some point when you were in the  
18 prison system, were you -- or were people able to  
19 get -- whether it was technically allowed or not  
20 able to get alcohol into the system?

21 A. They could make it.

22 Q. And were you ever -- first off, did you  
23 ever make al -- make any kind of alcohol?

24 A. I participated in the making of some

431

1 alcohol, yes.

2 Q. Where did that take place?

3 A. In Menard.

4 Q. Did you also -- well, you -- while you  
5 were in the prison system, at any point in time,  
6 did you smoke marijuana?

7 A. Yes.

8 Q. And where did you smoke marijuana?

9 A. Mostly Menard but also in Stateville.

10 Q. And was that something that was kind of  
11 openly condoned or was that something that was --  
12 you know, how -- what was your understanding in  
13 terms of whether or not that was allowed by the  
14 prison officials that were --

15 A. It was not allowed, yes.

16 Q. Did you ever -- well, before I get to  
17 that, what caused you to leave Pontiac after your  
18 time there to go to Stateville?

19 A. When you're in Pontiac -- Pontiac is a --  
20 it's a disciplinary -- it's a seg joint. If you're  
21 in general population in Pontiac, you're just  
22 waiting to go somewhere else.

23 Q. I take it you didn't realize that when you  
24 requested to go to Pontiac?

432

1           A. My understanding of Pontiac was that I  
2 would be able to have a job and stay there  
3 indefinitely.

4           Q. During the time that you were in Menard,  
5 about how many times did you smoke marijuana?

6           A. I don't know. I really couldn't tell you  
7 exactly. It was --

8           MR. BOWMAN: Alan, you don't need to guess. If  
9 you don't know, you can say you don't know.

10          THE WITNESS: I can't say specifically. I  
11 don't know.

12          BY MS. EKL:

13          Q. Was it daily?

14          A. Not always, no. Occasionally.

15          Q. Would you say at least weekly?

16          A. Not that even necessarily.

17          Q. Where did you get the marijuana?

18          A. From people that were selling it around  
19 the gallery.

20          Q. When you went to Stateville and you smoked  
21 marijuana there, did you do it more frequently or  
22 less frequently?

23          A. I quit while I was in Stateville, but when  
24 I first got there, more frequently.

433

1 Q. And where did you get the marijuana when  
2 you were in Stateville?

3 A. I had a celly that had it.

4 Q. Although you said that Pontiac was a  
5 temporary place before you go into somewhere else,  
6 did you have any kind of influence in terms of your  
7 movement into Stateville?

8 I mean, did you request that or do you  
9 know what -- what specifically --

10 A. I didn't request it --

11 Q. -- caused you to go there?

12 A. -- but I knew that that was -- I shouldn't  
13 say I knew, but it was implied to me that that was  
14 where I would end up if I didn't go into protective  
15 custody there, that they wouldn't send me back to  
16 Menard.

17 Q. And how would you describe your time in  
18 Stateville being any different than it was in  
19 Pontiac or Menard, if at all?

20 A. I was more seasoned. I had a better  
21 understanding of what to expect from my environment  
22 by then and I had matured some.

23 It was more dangerous from a standpoint of  
24 being concerned about volatile events occurring.

434

1 Menard had been the most dangerous when I was in  
2 general population prior to the crack-down.

3 And by the time I got to Stateville, I was  
4 biting. I wasn't -- I wasn't just sitting around  
5 waiting for something to happen. I was trying to  
6 figure out how to live.

7 Q. What jobs, if any, did you have while you  
8 were in Stateville?

9 A. I had a janitor job. I did that for about  
10 a year, maybe a little more. And then, I got a job  
11 in the law library. And I worked there until I  
12 transferred out.

13 Q. And again, were jobs in the law library --  
14 were those considered to be pretty good jobs?

15 A. I think the best thing about the law  
16 library was that you're there all day and it's not  
17 constant work, work, work.

18 I don't know whether it was considered to  
19 be -- I think if you were a law clerk, it might be  
20 better, but I liked it better than the job I had  
21 had previously. It got me out of the building.

22 Q. Other than working or the times that you  
23 were smoking marijuana, what other ways did you --  
24 up until that point in time -- so say through

435

1 Stateville, what other things did you do to help  
2 pass time?

3 A. I watched television. I lifted weights.  
4 I read books. I wrote. I wrote letters.

5 Q. Did you take any classes?

6 A. There were no classes available to me in  
7 Stateville.

8 Q. What about in Pontiac or Menard?

9 A. Nowhere in maximum security.

10 Q. Up through that point in time, did you --  
11 were you participating in any type of  
12 religious-type organizations?

13 A. I went to chapel a few times in Menard.  
14 And then, when I was in protective custody, I  
15 stopped. And then, in Stateville, I started going  
16 again.

17 Q. Were you involved in any type of other  
18 organized activities, whether it was sports or  
19 music or anything else that was organized with  
20 groups?

21 A. There's nothing organized in maximum  
22 security. Like actually presented by the  
23 institution, you're asking?

24 Q. Uh-huh. Right.

436

1           A.    There was nothing really organized, other  
2 than some religious events, and that was pretty  
3 much it.

4           Q.    At some point during your stay, you  
5 were -- you played volleyball pretty regularly,  
6 correct?

7           A.    In Dixon.

8           Q.    In Dixon? Okay. So that was later on?

9           A.    Yeah.

10          Q.    Okay. Did your time change -- well, first  
11 off, why did you go from then Stateville to Western  
12 Illinois Correctional Facility?

13          A.    To get out of maximum security.

14          Q.    Was there something that changed that  
15 allowed you to get out of maximum security?

16          A.    I had done enough time.

17          Q.    And up until going to Western Illinois  
18 Correctional Facility, had you had any major  
19 tickets?

20          A.    I know there were some major tickets. I  
21 wouldn't be able to list them for you.

22          Q.    Do you remember spending any particular --  
23 any particular amounts of time in segregation as a  
24 result of any disciplinary proceedings?

437

1 A. In maximum security?

2 Q. Correct.

3 A. No.

4 Q. Up until the point in time when you went  
5 into Western Illinois.

6 A. No, I had never been to seg at that point.

7 Q. How did things change, if at all, once you  
8 went to Western Illinois?

9 A. I was pretty shocked by the inappropriate  
10 attitude of the staff there. It was very  
11 combative.

12 A polite request for information is met  
13 by, if you'll forgive the terminology, an  
14 ass-chewing. And officers -- there were some that  
15 would routinely just grab you by the shirt and  
16 start telling you what to do and be touching you.  
17 And I thought that was pretty shocking.

18 It seemed to be a place where the staff  
19 was not concerned about any of the rights or  
20 well-being of the prisoners, beyond what they felt  
21 they were absolutely legally required to do.

22 Q. Did you get -- I'm sorry. Were you  
23 finished? I didn't mean to cut you off.

24 A. Well, you're asking me what was different,  
438

1 right?

2 Q. Right. Right. Sorry. Go ahead.

3 A. But there were classes that you didn't --  
4 in maximum security, you had to have -- you had to  
5 fail an aptitude test to get into a class. In  
6 medium security, there was some higher education  
7 available.

8 Q. And did you take advantage of any of  
9 those?

10 A. I did.

11 Q. What classes did you take?

12 A. I took an automotive class. I took some  
13 math classes. That was part of the automotive  
14 certificate degree.

15 Initially, it was supposed to be a --  
16 initially, it was supposed to be an Associates  
17 Degree, but that program was cancelled. So I just  
18 got the certificate.

19 Q. So you did eventually get that --

20 A. I --

21 Q. -- the automotive certificate?

22 A. I got a certificate, yes.

23 Q. And when was -- when did you receive that?

24 A. I don't remember specifically. Maybe

439

1 halfway through while I was there.

2 Q. Any other ways that it was different in  
3 terms of things that you were able to do or --

4 A. I expected that there would be more  
5 movement, but there wasn't. As far as things being  
6 different, I can't think of in terms of maximum  
7 security to medium security.

8 Maybe a little better visiting situation.  
9 You're allowed a little more time for your visits.

10 Q. Was it at Western -- or at Western  
11 Illinois, did you get into an altercation with any  
12 of the guards?

13 A. No, I didn't get into an altercation with  
14 a guard.

15 Q. Did you get disciplined at all for any  
16 interaction with any guards while you were in  
17 Western Illinois?

18 A. I don't think so. I don't remember having  
19 any altercation or -- the guards there, you  
20 didn't -- you didn't want to provoke that.

21 Q. And then -- I guess I didn't write it  
22 down. How long were you at Western Illinois?

23 A. I don't know. Roughly two years, but I  
24 don't know exactly. It's --

440

1 Q. And then, you spent the last five in  
2 Dixon, correct?

3 A. Yes.

4 Q. All right. And what -- why did you move  
5 from Western Illinois to Dixon?

6 A. To be closer to home. To be in a better  
7 environment.

8 Q. And so is it fair to say that that was  
9 pursuant to your request?

10 A. That I was transferred pursuant to my  
11 request?

12 Q. Right.

13 A. Yes. Yes.

14 Q. Okay. And was Dixon, in your mind, a  
15 better place to live than Western Illinois?

16 A. Yes.

17 Q. And how was it better?

18 A. There were -- there was more liberty.  
19 There was more opportunity for choosing between  
20 activities.

21 Q. And what sorts of activities were you  
22 involved in at that time, in addition to -- you  
23 mentioned that that was where you played  
24 volleyball?

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C03954

APPENDIX 000815



1 was found in possession of a recording of a concert  
2 that the rock band had played. I tried to get it  
3 to my grandmother. I thought she would enjoy  
4 hearing that. And that was a mistake.

5 Q. What sort of punishment did you receive as  
6 a result of either of those tickets?

7 A. The one in Mount Sterling, I was placed on  
8 C Grade for three months, revoked commissary  
9 privileges, revoked phone privileges, and some  
10 activities become less available to you. I don't  
11 specifically remember all about C Grade but --

12 And then, in -- that was eventually  
13 downgraded to one month.

14 And then, in Dixon, I was sent to the  
15 hole. I -- they were going to transfer me to  
16 another secure medium similar to Western Illinois  
17 Correctional Center as part of the punishment and I  
18 did 45 days in the hole.

19 Q. Was that in lieu of being transferred?

20 A. No. That was -- I would have been in the  
21 hole upon being transferred for however long they  
22 sentenced me to being in the hole, but I would have  
23 been shipped to -- I think it was going to be  
24 Galesburg they wanted to send me to.

443

1           And I would have been in the hole there  
2 for the remainder of the time that I was sentenced  
3 to that.

4           MR. DICIANNI: Can I ask what that is?

5           MS. EKL: Sure.

6           THE WITNESS: The hole? Disciplinary  
7 segregation, I think, is what it's termed now.

8           MR. DICIANNI: So you're kept apart from  
9 everyone else?

10          THE WITNESS: You're put in a cell by yourself  
11 and you don't have access to normal privileges.  
12 Your visits are handcuffed through -- and you visit  
13 through glass.

14           You're fed in your cell. You have a  
15 limited amount of personal property compared to  
16 what you normally have. It's being grounded.

17          MR. DICIANNI: Okay. Thank you.

18          BY MS. EKL:

19           Q. In your interrogatory responses, you  
20 indicated that in the fall of 1995, you received  
21 treatment while housed in Menard after beaten in  
22 the face and head by other inmates.

23           Is that in reference to that incident you  
24 talked about in regard to Shorty G?

444

1 A. Yes.

2 Q. Okay. I just wanted to make sure. I'm  
3 going to ask you some questions about your  
4 relationships with people since Jennifer in 1993.  
5 Have you had --

6 A. Are you starting a new line?

7 Q. Yes.

8 A. Can I run to the bathroom first?

9 Q. Yes.

10 A. Thank you.

11 THE VIDEOGRAPHER: This marks the end of  
12 Tape 2. The time is 3:39 p.m. We are off the  
13 record.

14 (A short break was taken.)

15 THE VIDEOGRAPHER: This marks the beginning of  
16 Tape 3. The time is 3:48 p.m. We are on the  
17 record.

18 BY MS. EKL:

19 Q. Before we went off the record, I was  
20 asking you just generally about whether or not you  
21 had had any romantic relationships since your  
22 breakup with Jennifer Lockmiller in 1993.

23 Let me start with while you were in  
24 prison. Did you meet any women and have any kind

445

1 of relationships with anyone while you were in  
2 prison?

3 A. I had a pen pal while I was in prison that  
4 began visiting me. And it became briefly romantic,  
5 but I felt that it was not the right time for me to  
6 be looking into that kind of a thing and -- so I  
7 broke it off with her.

8 Q. What was the name of that person?

9 A. Her name was Amber Hoefle.

10 Q. Can you spell her last name?

11 A. H-o-e-f-l-e, I believe.

12 Q. f-l-e?

13 A. Yeah.

14 Q. How long did that last?

15 A. I mean, from -- she was writing to me for  
16 a while on a friendly basis. I think she probably  
17 was visiting me for -- I don't know. Four or five  
18 months or so maybe. I'm not sure exactly.

19 Q. Did you break off your relationship with  
20 her before you were released from prison?

21 A. Yes.

22 Q. Who is the next person that you had a  
23 romantic relationship with?

24 A. After I got out?

446

1 Q. After Amber. So whether it was in --  
2 while you were incarcerated still or after you got  
3 out.

4 A. It was after I got out.

5 Q. Okay. And who was that?

6 A. I started hanging out with Kate Sullivan,  
7 an old friend. And that became romantic pretty  
8 quickly and we eventually got engaged.

9 Q. You said that Kate was an old friend?

10 A. Yes.

11 Q. When did you first meet Kate?

12 A. I used to work with her at Starlight  
13 Theater. I probably first met her -- I don't  
14 remember specifically, but it was while I was  
15 working at Starlight Theater.

16 So it would have either been the summer  
17 after my senior year or maybe the summer after my  
18 freshman year in college.

19 Q. I was confused for a second. So the  
20 summer after your senior year in high school?

21 A. Yes.

22 Q. And when was it that you started up a  
23 rel -- renewed your relationship with her, even if  
24 it was on a friendship basis, after your release?

447

1           A.    She wrote to me in prison periodically,  
2 but then, after the rel -- after my release, she  
3 came over to my house the next day.

4           Q.    And how long after that do you think the  
5 relationship changed into a romantic relationship?

6           A.    A couple days.

7           Q.    And within that time period, did it also  
8 become a sexual relationship?

9           A.    Not right away, no.

10          Q.    About how long did it take until that  
11 happened?

12          A.    Maybe a month and a half.

13          Q.    Is there anything that you can point to  
14 that you would say caused the two of you to break  
15 up your engagement?

16          A.    It was a strained relationship. We  
17 stopped communicating. We weren't really as  
18 directly involved with each other anymore.

19                And she started having friends outside of  
20 our relationship and wanting to spend time with  
21 them and without me. And I think the way she went  
22 about it was frustrating to me and suspicious  
23 and -- so it just deteriorated.

24          Q.    Did you see any of the same patterns in

448

1 Kate that you had seen in your relationship with  
2 Jennifer?

3 A. The same patterns in my relationship with  
4 Kate as with Jennifer?

5 Q. Let me rephrase it. Were there any  
6 similarities that you saw between Kate that there  
7 were -- did you -- were there any similarities  
8 between Kate and Jennifer in terms of how they were  
9 in the relationship?

10 A. I really don't know how to -- I don't  
11 know -- you'd have to be more specific, I guess.

12 Q. Did you have suspicions that she was  
13 seeing other men outside of your relationship?

14 A. I knew she had a male friend that she was  
15 spending time with on a regular basis.

16 Q. And so I guess would that be an example of  
17 a similarity between her and Jennifer, that you had  
18 suspicions that -- with both of them that they were  
19 having relationships outside of the relationship  
20 with you?

21 A. If -- yeah. As common as that might be, I  
22 would think, but it might be a similarity, yes.

23 Q. Did you ever confirm whether or not that  
24 suspicion was actually true?

449

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APPENDIX 000823

1 A. No.

2 Q. And did you ever take any steps to try to  
3 confirm it?

4 A. I did.

5 Q. And what did you do?

6 A. I tried to catch her out with him.

7 Q. And how did you go about trying to catch  
8 her out with him?

9 A. I went to a bar that she liked to go to a  
10 lot one night to see if they were there together.

11 Q. When you went to that bar, did you find  
12 the two of them together?

13 A. No.

14 Q. Were there other circumstances where you  
15 tried to catch her with him?

16 A. There were. I'm trying to remember  
17 specifics but --

18 Q. Can you think of any others?

19 A. I -- not off the top of my head. I'd have  
20 to --

21 Q. Is it fair to say that by the end of your  
22 relationship with Kate that she had accused you of,  
23 for lack of a better word, stalking her?

24 A. Not in so many words. I think she --

450

1 well, she expressed concern that my trying to catch  
2 her bore some resemblance to that, yes.

3 Q. That was a word that she actually did use  
4 during some conversations with you about your  
5 behavior in terms of trying to catch her with the  
6 other man?

7 A. Yes.

8 Q. And in fact, that was something that you  
9 relayed or you -- that you told your therapist that  
10 you were seeing after your release, correct?

11 A. Yes.

12 Q. How long were you in a relationship with  
13 Kate Sullivan that was following that initial, you  
14 know, couple-day period, but how long were you in a  
15 relationship with her that was romantic?

16 A. I think through -- well, are you asking  
17 when we broke up or --

18 Q. Right, from when the time that your  
19 relationship became romantic until you broke up,  
20 how long did that -- was that period of time?

21 A. Roughly five to six -- roughly six months.  
22 Six months.

23 Q. And how far were you into that  
24 relationship before the two of you got engaged?

451

1 A. Probably three months, maybe a little  
2 less.

3 Q. And unlike your relationship with  
4 Jennifer, was this an engagement that was announced  
5 to people --

6 A. Yes.

7 Q. -- and that you told? Did you tell your  
8 family members?

9 A. Yes.

10 Q. Did she tell her family members?

11 A. Yes.

12 Q. And you both told your friends?

13 A. Uh-huh.

14 Q. I'm sorry. Is that a yes?

15 A. Yes. I'm sorry.

16 Q. What was the next romantic relationship  
17 that you had following Kate Sullivan?

18 A. I was briefly spending time with another  
19 friend, another old friend.

20 Q. Who was that?

21 MR. DICIANNI: Before you ask the next  
22 question, my secretary is trying to get --

23 MS. EKL: Oh.

24 MR. DICIANNI: -- my attention. And it

452

1 might --

2 MS. EKL: Sure.

3 MR. DICIANNI: -- have something to do with  
4 this room so --

5 THE VIDEOGRAPHER: Should we go off the record?

6 MR. DICIANNI: The building needs to know if  
7 we're going past 5:00.

8 MS. EKL: Let's go off the record for one  
9 second.

10 THE VIDEOGRAPHER: We are off the record at  
11 3:58 p.m.

12 (Discussion off the record.)

13 THE VIDEOGRAPHER: We are back on the record at  
14 3:58 p.m.

15 BY MS. EKL:

16 Q. I'm sorry. What was the name of the woman  
17 that you were friends with that you then had a  
18 relationship with after Kate Sullivan?

19 A. Jennifer Thompson.

20 Q. And when did you first meet  
21 Jennifer Thompson?

22 A. At Starlight Theater when we were in high  
23 school.

24 Q. When did that relationship start, your --

453

1 I'm sorry. When did the romantic relationship  
2 start after your release?

3 A. I was out with some friends. And we ran  
4 into her and she -- I don't know. When was it?

5 It was -- I don't know. It might have  
6 been January-ish, maybe early February. I don't  
7 remember specifically.

8 Q. Of 2012?

9 A. Sometime during the winter.

10 Q. Of 2012?

11 A. No.

12 Q. 200 -- okay.

13 A. Let's see. I want to say 2009.

14 Q. And how long did that romantic  
15 relationship last?

16 A. Just a couple weeks.

17 Q. And was that also a sexual relationship?

18 A. Briefly, yes.

19 Q. And what would you say was the cause of  
20 that relationship ending?

21 A. I felt like she wasn't a good match for  
22 me. I had told her when we first started hanging  
23 out together that I was trying to stay out of  
24 something serious. And I think that's what she

454

1 wanted. So I told her I was going to break it off.

2 Q. And how soon was that relationship  
3 following the breakup with Kate Sullivan?

4 A. A couple months maybe, a month and a half.  
5 I really don't know exactly. Like I said, it  
6 happened sometime in the winter.

7 Q. And then, who was the next person that you  
8 were romantically involved with after  
9 Jennifer Thompson?

10 A. Gretchen, my wife.

11 Q. And what's Gretchen's maiden name?

12 A. Hasenzahl.

13 Q. Can you spell that for me?

14 A. H-a-s-e-n-z-a-h-l.

15 Q. And how was it that you met Gretchen?

16 A. I met her at church.

17 Q. And when did you meet her?

18 A. I met her -- I don't remember the specific  
19 day. I remember that it was the youth group dinner  
20 theater fundraising event for the church youth  
21 group.

22 Q. When was it that the two of you started  
23 dating?

24 A. That was a really gradual process.

455

1 Q. Where it went from being a friendship into  
2 dating?

3 A. Yeah.

4 Q. Okay. When -- approximately how long had  
5 you been dating her before you got engaged?

6 A. Over a year.

7 Q. And when did the two of you get engaged?  
8 This, you better know the answer to.

9 A. Oh, no. She knows. I don't know. It was  
10 the summer of -- I want to say 2010.

11 I know it was after the -- I was finished  
12 with the majority of my work at the theater for the  
13 summer, because I was buried alive during that time  
14 and I wanted to wait until after that.

15 Q. Would you say that your relationship with  
16 Gretchen is a normal, healthy relationship?

17 A. Absolutely.

18 Q. And the two of you have -- well, first  
19 off, you have a stepchild through Gretchen, is that  
20 true?

21 A. Yes.

22 Q. How old is your stepchild?

23 A. [REDACTED] is 9.

24 Q. Can you spell [REDACTED] name?

456

1 A. [REDACTED].

2 Q. And [REDACTED] is your daughter, correct --  
3 your stepdaughter?

4 A. I call her my daughter.

5 Q. Okay. You also have another child with  
6 Gretchen, correct?

7 A. Yes.

8 Q. And is that a boy or a girl?

9 A. It's a girl.

10 Q. And what is her name?

11 A. Her name is [REDACTED].

12 Q. Could you spell that?

13 A. [REDACTED].

14 Q. And how old is [REDACTED] today?

15 A. [REDACTED] is a little over six months old.

16 Q. Do you and your family -- do you live in a  
17 house that you own or rent?

18 A. I own the house.

19 Q. Where is that located, just in terms of  
20 the town? You don't have to give me the specific  
21 address.

22 A. It's in the Rolling Green neighborhood.

23 Q. Does anyone else live in your house other  
24 than you and Gretchen and the two girls?

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APPENDIX 000831

1 A. No.

2 Q. And does [REDACTED] live with you full time  
3 or does she also split time with --

4 A. She lives with us full time.

5 Q. Are you currently employed?

6 A. Yes.

7 Q. And where are you employed?

8 A. Gleason Cutting Tools.

9 Q. What are your job responsibilities at  
10 Gleason?

11 A. I'm a machinist.

12 Q. How long have you held that job?

13 A. It will be two years in August.

14 Q. And what are your job responsibilities  
15 there?

16 A. I make shaper cutters. It's a cutting  
17 tool that's used in manufacturing.

18 I run a profile grinder. It's a machine  
19 that grinds to a smooth finish the rough object.  
20 And then, I -- sometimes I have to inspect them.  
21 And it's the basis -- that's -- the majority of my  
22 duties are in those two things.

23 Q. And how much do you make currently at  
24 Gleason Cutting Tools?

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1 A. I make \$15.01 an hour.

2 Q. One sent? How many hours do you work a  
3 week?

4 A. Anywhere from 40 to 60.

5 Q. Prior to working at Gleason Cutting Tools,  
6 where did you work?

7 A. Rock Valley College.

8 Q. And when did you first start working at  
9 Rock Valley College?

10 A. July of the year that I came home. July  
11 of 2008.

12 Q. And I don't believe I asked you, what was  
13 the date that you were released from prison?

14 A. June 26th, I think, 2008.

15 Q. So you then started working at Rock Valley  
16 within a month of your release, is that fair to  
17 say?

18 A. Yes.

19 Q. What were your -- what was your title and  
20 your job duties at Rock Valley College?

21 A. I was a technical assistant the first --  
22 at first.

23 Q. And how long did you have that position?

24 A. Two weeks.

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APPENDIX 000833

1 Q. And what was your job after that?

2 A. I was suspended.

3 Q. Why were you suspended?

4 A. Because some people at the college felt  
5 that due to the pending charges that McLean County  
6 still hadn't dropped and was asserting a retrial on  
7 made me a liability to the school.

8 Q. Did -- were you ever rehired back after  
9 you were suspended or was that at the point in time  
10 when your employment terminated with Rock Valley?

11 A. I was hired back about a year later.

12 Q. And to your knowledge, do they know that  
13 there's still -- that the County is still fighting  
14 the certificate of innocence proceedings?

15 A. I don't know what they knew about the COI.  
16 It was not my -- not my direct supervisor's doing  
17 to fire me. So my communications with him, I don't  
18 know what he knew that they knew and vice versa.

19 Q. Is it fair to say that your circumstances  
20 are the -- in terms of any -- as far as being  
21 involved and being a suspect or the position of  
22 your criminal proceedings are still the same as  
23 they were back at the time that you were suspended  
24 initially?

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1 A. I'm sorry. Can you --

2 Q. Yeah. I'm sorry. That was a bad  
3 question.

4 What's different, if at all, in terms of  
5 your -- the County's treatment of you, as a suspect  
6 or otherwise, than it was at the time that you were  
7 suspended?

8 MR. BOWMAN: I object on foundational grounds.

9 BY MS. EKL:

10 Q. If you know.

11 A. I think the only thing that's different is  
12 that I'm not being charged anymore.

13 Q. So at the time that you were suspended,  
14 you were still charged, you're saying, at that  
15 time?

16 A. Yes.

17 Q. Did you take any other jobs during that  
18 time period where you were suspended from  
19 Rock Valley?

20 A. I worked some odd jobs.

21 Q. What kind of odd jobs did you do?

22 A. Handy-work. Refinishing floors, apartment  
23 rehab, some -- a lot of grounds work, lawn-mowing,  
24 snow removal.

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APPENDIX 000835

1 Q. Is it fair to say that pretty much  
2 continuously since you were released from prison,  
3 you've been able to find some type of employment?

4 A. Some type, yes.

5 Q. Where did you go to live when you were  
6 first released from prison?

7 A. I lived with my parents.

8 Q. And how long did you live with them?

9 A. About a year.

10 Q. And were they still living at that same  
11 location on [REDACTED]?

12 A. Yes.

13 Q. Did anyone else live at the house besides  
14 you and your parents?

15 A. My brother.

16 Q. And that's your brother Kelly?

17 A. Yes.

18 Q. Where did you go after that year-long  
19 period?

20 A. I got an apartment with my brother.

21 Q. And how long did you live in the  
22 apartment?

23 A. One year.

24 Q. What caused you to move from your parents'

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1 house to the apartment?

2 A. We needed more space.

3 Q. And what happened after living in -- for a  
4 year in the apartment with Kelly?

5 A. He and I moved into a different apartment  
6 that had lower rent and was one that I wouldn't  
7 have to have a long lease, because Gretchen and I  
8 were planning on getting married and I was going to  
9 move into her house then.

10 Q. How would you describe your relationship  
11 with Kelly after you were released from prison?

12 A. My brother and I have always been -- we've  
13 always been friends.

14 Q. Did you talk to him throughout your  
15 incarceration?

16 A. Not that often.

17 Q. Did you talk to him during the time period  
18 when you were awaiting trial?

19 A. Once in a while.

20 Q. Do you know if Kelly came to any of your  
21 criminal proceedings?

22 A. I don't think he did, no.

23 Q. Is your -- would you describe your  
24 relationship with Kelly any different after your

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1 release than it was before you were incarcerated?

2 A. Well, I think a lot of that, you know --  
3 yeah. We were adults instead of being kids.

4 Q. Did your relationship with your parents  
5 change at all from the time period before your  
6 incarceration and after your release?

7 A. I think I got closer to my parents.

8 Q. After your release?

9 A. You're asking a difference between during  
10 the incarceration and after my release?

11 Q. No. Prior to your incarceration before  
12 you were arrested --

13 A. And after my release.

14 Q. And after. Was your relationship  
15 different?

16 A. Yes.

17 Q. Okay. And are -- when you say you got  
18 closer, were you closer with them before you were  
19 arrested or after your release?

20 A. I was closer with them after my release.

21 Q. In addition to the jobs that you've  
22 described, were there any other means that you had  
23 over the last -- over the years since your  
24 release -- sorry.

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1 Have you received money from any other  
2 sources during that time period?

3 A. I received a donation from a friend, who  
4 thought that I would need something to get started  
5 with.

6 Q. How much was that donation?

7 A. I don't remember. I think it was \$10,000.  
8 I can't remember.

9 MR. BOWMAN: Alan, if you don't remember, you  
10 should say you don't remember.

11 THE WITNESS: I don't remember --

12 MR. BOWMAN: Don't guess.

13 THE WITNESS: -- specifically, yeah.

14 BY MS. EKL:

15 Q. Was that a donation that you were not  
16 expected to pay back?

17 A. Correct.

18 Q. Have you ever received any money for any  
19 speaking engagements?

20 A. No.

21 Q. You do partake in speaking engagement --  
22 I'm sorry. Speaking engagements on occasion,  
23 correct?

24 A. Yes.

465

1 Q. Approximately how many speaking  
2 engagements have you been a part of since you were  
3 released from custody?

4 A. Five or six. Not -- I mean, not more than  
5 ten.

6 Q. And in addition to speaking engagements,  
7 you've also -- is it fair to say you filmed kind of  
8 a movie about your release or a short little  
9 video --

10 A. I've --

11 Q. -- of your release?

12 A. -- done some promotional videos for the  
13 Center of Wrongful Convictions and -- yeah.

14 Q. In addition -- in addition to the  
15 promotional videos for the wrongful convictions,  
16 you also did a short video called Sweet Freedom?

17 A. I'm not sure what you're talking about.  
18 Can you give more information?

19 Q. Sure. Do you recall doing a video where  
20 it basically showed you on a motorcycle with  
21 Gretchen on the back --

22 A. Okay. Was it --

23 Q. -- and the two of you talked about your  
24 life?

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1 A. -- in connection to the Reader's Digest?

2 Q. It was called -- the title of it was  
3 called Sweet Freedom.

4 A. I think you're talking about something  
5 that the Reader's Digest did on line maybe, yeah.

6 Q. You're familiar with that Reader's Digest  
7 article?

8 A. Yes.

9 Q. Would you say that it fairly portrays your  
10 life today?

11 A. I think it glamorizes it.

12 Q. What about it do you think glamorizes it  
13 or is not entirely accurate?

14 MR. BOWMAN: Object to the form of the  
15 question.

16 THE WITNESS: That is the sense I get from  
17 remembering what I can about it. I would probably  
18 have to watch it and give you specifics, if that's  
19 what you want.

20 BY MS. EKL:

21 Q. When you say it glamorizes it, though,  
22 what do you mean by that?

23 A. I think it's intended to be an uplifting  
24 story. And it may be -- well, you've heard the

467

1 phrase give me the Reader's Digest version.

2 Q. Fair enough.

3 A. It's the Reader's Digest version.

4 Q. I didn't ask you earlier, just kind of  
5 going back for a second, prior to the time when you  
6 were brought -- when you were charged and arrested  
7 for Jennifer's murder, had you had any contact  
8 whatsoever with Jim Souk?

9 A. Prior to when I was arrested?

10 Q. Correct.

11 A. I don't believe so.

12 Q. Did you have any contact with  
13 Charles Reynard -- Reynard?

14 A. I don't believe so.

15 Q. Other than the two occasions that we  
16 talked about with Lieutenant Brown, did you have  
17 any more contact with him?

18 A. I really don't remember -- I don't  
19 remember any independent contact with him without  
20 Freesmeyer. So I -- however many times he was with  
21 him.

22 Q. How would you describe how the defendants'  
23 actions in this case has affected your life?

24 A. Can you be -- I -- how would I describe

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1 it's affected my life?

2 Q. Correct.

3 A. I mean, they took 13 years away from me.  
4 They put me in -- they put me in prison. I mean,  
5 they wrongfully convicted me. They put me through  
6 the worst experience I can ever think of having at  
7 this point. I -- wow.

8 They took me away from everything that I  
9 knew and they plunged me into a desperate,  
10 terrifying situation that I was forced to survive  
11 and overcome or die. And I think I'm forever  
12 changed.

13 Q. Would you say that despite your  
14 experiences that you have persevered in your life?

15 A. Have I persevered?

16 Q. Yes.

17 A. I have dug myself out of it and forced  
18 myself to deal with it and forced myself to grow  
19 and forced myself to find something that I can hold  
20 onto to be me through it. And in that way, I have  
21 persevered.

22 Q. Would you say that despite the experiences  
23 that you had in prison, you've been able to  
24 overcome them, maintain relationships, and move

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1 forward with your life?

2 A. I am working on that. I'm working on  
3 moving forward. I'm working on overcoming.

4 I haven't really even processed everything  
5 that's happened to me. I'm still -- I'm still  
6 dealing with it. I've had a wall up around me  
7 emotionally for so many years that I don't -- I  
8 don't know necessarily how to be free.

9 Q. What sort of steps are you taking to try  
10 to enable yourself to process what's happened to  
11 you?

12 A. I think as I experience life and am  
13 confronted with things that are challenging,  
14 because they're -- because normal life is foreign  
15 to me now, I'm forced to deal with those things and  
16 try to do what I know is supposed to be the normal  
17 way to live, regardless of what my years of  
18 training in prison life instincts would have me do.

19 Q. Would you say that --

20 A. I'm --

21 Q. I'm sorry. I didn't mean to cut you off.  
22 Were you done?

23 A. Go ahead.

24 Q. I was just going to say, would you say

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1 that as each year goes by, the more time that you  
2 separate between when you were incarcerated and now  
3 that you're out, that gets easier?

4 A. I think I process more of it over time. I  
5 think something being easy or difficult can come  
6 and go.

7 I deal with what I see, what I come  
8 across. I deal with it and I try to find what  
9 normal life is like and move on to the next thing.

10 Q. Would you say that you're -- when you say  
11 that you try to be what you -- I don't want to  
12 paraphrase.

13 I don't want to mis -- or misphrase what  
14 you're saying, but are you trying to say that  
15 you're kind of going through the motions of  
16 being happ -- living a normal life or would you say  
17 that you are, in fact, living a normal life at this  
18 point today?

19 Not necessarily two years ago, three years  
20 ago, but today, as you sit here --

21 MR. BOWMAN: I'll object to the form of the  
22 question.

23 THE WITNESS: I think in a lot of areas, I'm  
24 burying emotions. And I -- I guess I -- it's hard

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1 for me to describe it by simply saying a normal  
2 life and abnormal life. I know I've used that  
3 word. I --

4 MR. BOWMAN: Alan, if you can't answer the  
5 question as phrased --

6 MS. EKL: He's --

7 MR. BOWMAN: -- you can say that. I mean, I  
8 don't want to cut him off either but --

9 MS. EKL: Right. He's answering. So I mean --

10 MR. BOWMAN: I think what he's saying is that  
11 the question is impossible to answer as it's  
12 phrased.

13 THE WITNESS: Do you have another way to phrase  
14 it? I --

15 MS. EKL: Can you read back my question,  
16 just -- and then, I'll rephrase from there?

17 (Whereupon, the record was read.)

18 BY MS. EKL:

19 Q. So are you saying that today, as you sit  
20 here -- I asked you before if you're living a  
21 normal healthy life. And I believe your response  
22 was that you are. Is that a fair answer --

23 MR. BOWMAN: Objection.

24

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1 BY MS. EKL:

2 Q. -- or a fair characterization?

3 MR. BOWMAN: I think that was not the question.  
4 I mean, that's not fair, Beth.

5 MS. EKL: It was a previous question. I'm just  
6 asking --

7 MR. BOWMAN: Right. And that's not --

8 MS. EKL: -- him if it's fair. So can you let  
9 him answer? And if it's incorrect, he can correct  
10 me, and then, I can follow up.

11 MR. BOWMAN: Right. But you're implying that  
12 he's committed to that proposition, when that's  
13 not --

14 MS. EKL: I'm --

15 MR. BOWMAN: -- the question that you asked  
16 before.

17 MS. EKL: -- asking him if that's what he was  
18 saying before.

19 MR. BOWMAN: Okay. Then, I think you should  
20 re -- well, objection. Form, foundation.

21 THE WITNESS: I think I'm going through a  
22 process that is not finished yet. And I can't tell  
23 you what my progress is, because I don't know what  
24 else is going to come up that's going to reveal

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1 something that is challenging me and overwhelming.

2 BY MS. EKL:

3 Q. Since your release, has -- have you been  
4 faced with anything that seemed overwhelming to  
5 you?

6 A. Yes.

7 Q. What was that?

8 A. When I was starting to get accustomed to  
9 not being in prison, when I was starting to wake up  
10 and realize, okay, I'm not in prison today or -- I  
11 began to experience unreasonable anxieties.

12 Q. When did that take place?

13 A. I guess I started to notice it in the fall  
14 of 2008.

15 Q. And how long did it last?

16 A. I still struggle with it.

17 Q. Are there any things that you encounter in  
18 your life that cause you to have more anxiety than  
19 other things?

20 A. I think what I normally experience is that  
21 if I have -- if I have an emotion that additional  
22 emotion that is similar comes out with that  
23 emotion.

24 I can get very grieved over something very  
474

1 simple, because I'm -- I've been storing up grief  
2 for many years.

3 Q. Can you give me an example of a time that  
4 that's happened?

5 A. Well, a few weeks ago, my wife told me --  
6 I got off work. And I was talking to my wife on  
7 the phone. And she told me that the power was out  
8 in the house.

9 There had been a bill that she had -- that  
10 she thought she had paid. And it was an  
11 overlooking of some amount of the bill and they had  
12 shut the power off.

13 And I was really frustrated by that. And  
14 I felt that we were as a household falling short of  
15 our responsibilities. And I'm feeling behind the  
16 eight ball and trying to catch up in life and we're  
17 getting further behind.

18 And on the way home, I had to pull over in  
19 the parking lot at one of the hospitals in  
20 Rockford, Swedish American, and just park and sit  
21 there for about 20 minutes and try to calm down. I  
22 think I played Angry Birds.

23 And it's -- I guess I would describe it as  
24 feeling like there's a whole bunch of energy in my

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1 body that has no constructive way to come out.  
2 It's just bouncing around in there and I'm worrying  
3 a mile a minute.

4 Q. And I take it that since your release, you  
5 haven't released frustration or anger in some of  
6 the ways that you've known prior to your  
7 incarceration, such as banging your head on doors  
8 or walls?

9 A. I --

10 MR. BOWMAN: Object to the form of the  
11 question.

12 THE WITNESS: I will say that while I was in  
13 the prison system, I trained myself to keep my  
14 mouth shut and keep my feelings to myself, because  
15 nobody wants to hear it and it might get me into  
16 trouble.

17 BY MS. EKL:

18 Q. And so do you still react in the same  
19 manner as you did then when you were in prison,  
20 being that you keep those things to yourself,  
21 rather than have them manifest in, for instance,  
22 the circumstance where you would bang your head  
23 against a wall?

24 A. I'm certain that I often do.

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1 Q. Are you claiming as -- are you claiming  
2 that you have a mental illness or disorder as a  
3 result of the acts alleged in your complaint?

4 MR. BOWMAN: Objection to the form of the  
5 question, to the extent it calls upon him to  
6 provide a medical or psychiatric or psychological  
7 opinion. There's not a foundation for it.

8 And I don't know if he can answer it, but  
9 if you can try and answer it, you must do so. I'm  
10 not going to instruct you not to answer.

11 THE WITNESS: I think it's stated in the claim  
12 what I'm claiming.

13 BY MS. EKL:

14 Q. We issued interrogatories to you. And  
15 we've already talked briefly about the fact that --  
16 just that we issued those to you, correct, in this  
17 case?

18 A. Yes.

19 Q. And you signed the interrogatories prior  
20 to them being given to us, correct?

21 A. Yes.

22 Q. Were you the one who actually prepared the  
23 answers to those interrogatories or did someone  
24 else do it on your behalf?

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1           A.   My attorneys helped me prepare those  
2 interrogatories.

3           Q.   Were those interrogatories truthful and  
4 based on things that were in your personal  
5 knowledge when you an -- or your answers to those  
6 interrogatories?

7           A.   To the best of my knowledge, yes.

8           Q.   Your response to one of Judge Souk's  
9 interrogatories indicated that you suffer from  
10 anxiety, PTSD or posttraumatic stress disorder --  
11 and I'm quoting now, other mental health problems  
12 stemming from his wrongful conviction and  
13 incarceration.

14                   Do you recall providing that information  
15 to the defendants in your answers to  
16 interrogatories?

17           A.   Yes.

18           Q.   What did you mean by you suffer from  
19 anxiety and posttraumatic stress disorder?

20           A.   I am referring to how I've been counseled  
21 by psych -- a psychiatrist and a -- and my  
22 psychologist.

23           Q.   And are those diagnoses that either your  
24 psychologist or your psychiatrist has made?

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1 A. Yes.

2 Q. What is the name of your psychologist or  
3 any of -- first off, have you seen one psychologist  
4 or more than one psychologist since your release?

5 A. I've seen -- Kate Cieslak is my therapist.

6 Q. Is she a psychologist or a psychiatrist?

7 A. She is a psychologist.

8 Q. In addition, are you also seeing or have  
9 you seen a psychiatrist since your released --  
10 release?

11 A. Yes.

12 Q. And what's the name of that person?

13 A. Martha Crotts.

14 Q. Is there anyone else besides those two  
15 people that you've seen in the area of either  
16 psychology or psychiatry?

17 A. Dr. Diamond, my general practitioner, has  
18 been treating me with medications.

19 Q. What medications have you taken since your  
20 release?

21 A. With Zoloft.

22 Q. Are you still taking Zoloft?

23 A. Yes.

24 Q. How much -- what is your dosage of Zoloft

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APPENDIX 000853

1 that you take?

2 A. Currently, it's 50 milligrams.

3 Q. Is that per day?

4 A. Yes.

5 Q. What did you mean by other mental health  
6 problems stemming from his, or in this case, your  
7 wrongful conviction and incarceration?

8 A. Again, I -- my attorneys have -- are you  
9 speaking of the -- you're speaking of the  
10 interrogatories?

11 Q. Right.

12 A. I think that's based on a review of the  
13 reports from the files of Dr. Crotts. And I  
14 haven't even read those files but -- and  
15 Kate Cieslak.

16 Q. So you're not aware personally of any  
17 diagnosis related to any other -- in relation to  
18 any mental health problems that you may or may not  
19 have?

20 A. Any further diagnosis?

21 Q. Right.

22 A. I'm not aware of --

23 MR. BOWMAN: Is that further in addition to  
24 what has already been discussed?

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1 MS. EKL: Right.

2 THE WITNESS: I'm not aware of any further  
3 diagnosis, besides anxiety and posttraumatic stress  
4 disorder.

5 BY MS. EKL:

6 Q. And do you still continue to see both  
7 those doctors, Crotts and Cieslak?

8 A. I'm not currently, no.

9 Q. Is there any reason why you stopped seeing  
10 them?

11 A. Financial.

12 Q. When did you stop seeing Dr. Crotts?

13 A. I stopped seeing Dr. Crotts after I weaned  
14 off of Zoloft for a period of time during the  
15 summer of -- the summer of 2009.

16 Q. When did you -- so when did you wean  
17 off -- so in the summer of 2009, you weaned off of  
18 Zoloft. When did you start taking it again?

19 A. I started taking it again -- I can't  
20 specifically remember. I know it was prescribed by  
21 Dr. Diamond. I can't remember specifically when.

22 Q. And when did you stop seeing Kate Cieslak?

23 A. I don't specifically remember, but it's  
24 been a while.

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1 Q. Was it before or after you stopped seeing  
2 Martha Crotts?

3 A. I don't know. I can't remember.

4 Q. Are you claiming any physical injuries as  
5 a result of your -- the claims in your complaint?

6 A. In the sense that anxiety is a very  
7 physical experience. I mean, what are you asking  
8 for? Can you give me a specific? Are you --

9 Q. Just --

10 A. What's in the claim is in the claim.

11 Q. I'm just separating -- trying to find out  
12 what your damages are.

13 So you've claimed some mental damages  
14 related to having anxiety, posttraumatic stress  
15 disorder, and then, other undescribed -- or  
16 unspecified mental health problems.

17 I'm just checking to see if there's any  
18 physical injuries. Like is there some diagnosis  
19 you've received or some illness or something that  
20 you're claiming is based on the actions of the  
21 defendants in this case?

22 A. I'm not aware of any diagnosis of a  
23 physical injury, beyond the extent to where I  
24 experience physical issues due to the anxiety that

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1 I experience.

2 Q. What physical issues do you attribute to  
3 the anxiety?

4 A. I need to take medications that have  
5 side-effects. I have a chronic loose stool.

6 I experience physical anxiety attacks,  
7 where I -- again, as I've described, I have energy  
8 bouncing around inside of me that can occasionally  
9 be -- require me to stop what I'm doing and calm  
10 down.

11 Q. As far as any money that you expect to  
12 receive in this lawsuit, do you have -- have you  
13 promised any of that money to anyone?

14 A. Have I promised any money?

15 Q. Uh-huh. I'm sorry. Yes.

16 A. I would pay back the people that I owe  
17 money.

18 Q. Who do you owe money to?

19 A. Well, I feel that I owe money to my family  
20 for all of the money they spent and lost on my  
21 defense and on fighting to get me out of prison.

22 Q. Other than your family, do you owe any  
23 money to anyone else?

24 A. The bank.

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1 Q. And what do you owe the mon -- what --

2 A. I have a mortgage. I have other payments  
3 to the bank.

4 Q. When you say other payments, is that in  
5 relation to a loan separate from your mortgage?

6 A. Yeah. I think I have a -- I don't know.  
7 Between my wife and I, we have car loans, we have a  
8 motorcycle loan.

9 Q. How many cars do the two of you own  
10 together?

11 A. Two.

12 Q. And in addition to the two cars, you also  
13 have a motorcycle?

14 A. Yes.

15 Q. What type of car do you drive?

16 A. I drive a Kia Sportage.

17 Q. And how old is that?

18 A. I think it's a 2007.

19 Q. And what about your wife?

20 A. She drives a Honda Pilot. It's also a  
21 2007.

22 Q. And what kind of motorcycle do you have?

23 A. It's a Honda Shadow.

24 Q. And how old is that?

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1 A. 2009.

2 Q. Other than your -- and what kind of a  
3 mortgage payment do you have on your house?

4 A. What do you mean what kind? I mean --

5 Q. I'm sorry. How much? How much do you pay  
6 each month?

7 A. How much?

8 Q. Sorry. That was a bad question.

9 A. It's -- I think it's -- I don't  
10 specifically know. It's over \$900. That's escrow  
11 included and all of that.

12 Q. Other than paying back your family and  
13 paying off some debt, do you have any other plans  
14 for what you would do with any money that you might  
15 receive in this lawsuit?

16 A. Put my kids through college. Try to catch  
17 up on retirement funds that I don't have because I  
18 haven't been working for as long as I could have or  
19 should have been.

20 Q. Do you have plans generally -- not  
21 necessarily financial plans, but do you have plans  
22 generally for the future?

23 A. Plans? I --

24 MR. BOWMAN: I think that's vague and

485

1 overbroad.

2 BY MS. EKL:

3 Q. For instance, is it fair to say that you  
4 plan to one day hopefully send your kids to school?

5 A. Yes.

6 Q. Do you have plans to take vacations or  
7 anything of that sort?

8 A. If I can afford to do that, yeah.

9 Q. Are those things that you look forward to?

10 A. Yes.

11 Q. Is it fair to say that as of today, you're  
12 happy with your life?

13 A. Am I happy with -- I'm grateful for what I  
14 have, but I still need to -- I'm not caught up.

15 MS. EKL: Can we take just a couple minutes?

16 MR. BOWMAN: Sure.

17 MS. EKL: I might be done and I can pass it  
18 along to Tom.

19 THE VIDEOGRAPHER: We are off the record at  
20 4:42 p.m.

21 (A short break was taken.)

22 THE VIDEOGRAPHER: We are back on the record at  
23 4:52 p.m.

24

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1 BY MS. EKL:

2 Q. I just have a couple follow-up questions.  
3 You mentioned that one of the sources of your  
4 anxiety -- you gave me an example of having some  
5 financial -- that financial issues cause you  
6 anxiety, is that fair to say?

7 A. That's some of it.

8 Q. Are there other things that cause you in  
9 your daily life anxiety?

10 A. Yes.

11 Q. What things?

12 A. I'm afraid to spit my gum in a garbage  
13 can. If my saliva interacts with something else in  
14 the garbage can that turns out to be evidence in  
15 some case, then I will be implicated.

16 If I'm in traffic and there's a cop, I'm  
17 probably more worried about being pulled over than  
18 other people might be.

19 If -- if -- and I'm anxious about the fact  
20 that this COI case is being dragged out endlessly.  
21 And I want to move on with my life. I don't always  
22 know how to.

23 And I think things that challenge people  
24 on a normal basis that they accept as a normal

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C 4000

APPENDIX 000861

1 challenge that they're -- have been used to doing  
2 since they got out of college are things that I'm  
3 just now trying to figure out how to do.

4 And I've been deprived of the experience  
5 that a 40-year-old father of two is supposed to  
6 have. And I don't always know how to deal with  
7 that.

8 Q. When you say that you're still dealing  
9 with challenges of learning things that people who  
10 haven't been incarcerated know -- already know how  
11 to do, you've been out for a while now.

12 Can you name any specific examples of  
13 things you still struggle with not knowing how to  
14 do as a result of your incarceration?

15 A. I'm still pretty frustrated by technology.  
16 I'm sure I've done a lot of catching up on  
17 technology, but I guess I'm sometimes the old man  
18 that doesn't know how to program his VCR.

19 And I'm 40. And people that are older  
20 than me are using technology that's more difficult.

21 Q. You've certainly been able to -- and I'm  
22 sorry. I didn't mean to cut you off. Go ahead.  
23 I'm sorry.

24 A. That's fine.

488

1 Q. I apologize.

2 A. Go ahead.

3 Q. You've certainly been able to get up to  
4 speed on, for instance, using Facebook, correct?

5 A. I do okay with Facebook, yes.

6 Q. In addition to those messages that we  
7 talked about earlier with John Murray, you've  
8 reached out to or had other people reach out to a  
9 number of people -- I'm sorry. Strike all that.  
10 You've reached out to a number of people  
11 through Facebook, correct?

12 A. Yes.

13 Q. And they -- a number of people have  
14 reached out to you through Facebook, correct?

15 A. Yes.

16 Q. And you've used Facebook not only to reach  
17 out to people that you know and to respond to them  
18 but also to get out a message from time to time,  
19 correct?

20 A. I've posted some things on Facebook that I  
21 think people need to learn from. And I think it's  
22 my duty to try to make a difference.

23 Q. And those are things that weren't  
24 available to you prior to being incarcerated, but

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1 you've learned to deal with and it's technology  
2 that you've learned since you've been released,  
3 correct?

4 A. Yes.

5 MS. EKL: I don't have anything further.

6 MR. DICIANNI: Do I need a microphone?

7 MS. EKL: Oh.

8 THE VIDEOGRAPHER: Absolutely.

9 EXAMINATION

10 BY MR. DICIANNI:

11 Q. Mr. Beaman, I don't have too many  
12 additional questions, just a little while.

13 You've been through several legal  
14 proceedings in connection with all we've been  
15 talking about, correct?

16 A. Yes.

17 Q. A criminal trial, post conviction  
18 petition, appeals, the COI, all of that, right?

19 A. Yes.

20 Q. And all of that has generated a lot of  
21 paper, true?

22 A. Generated a lot of paper? Yes.

23 Q. Yeah. Police reports, testimony,  
24 statements, letters, decisions, whatever, correct?

490

1 A. Right.

2 Q. Have you read all of that?

3 A. I very much doubt it.

4 Q. Have you read a lot of it?

5 A. Yes.

6 Q. Do you recall reading a report where  
7 somebody reported to the police that one of -- that  
8 Jennifer told this friend -- that a friend of  
9 Jennifer's reported to the police that Jennifer  
10 told her that at one point in time, you threatened  
11 to kill Jennifer and then kill yourself? Did you  
12 read that?

13 A. I don't know whether I read that or not.

14 Q. Okay. It doesn't ring a bell?

15 A. No.

16 Q. Did that ever happen?

17 A. No.

18 Q. You never threatened to kill Jennifer and  
19 kill yourself?

20 A. No, I've never threatened to kill  
21 Jennifer.

22 Q. Okay. Any reason why Jennifer might  
23 have -- assuming it happened, Jennifer might have  
24 said something like that to a friend?

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APPENDIX 000865

1 MR. BOWMAN: Object to the form of the  
2 question. Foundation.

3 BY MR. DICIANNI:

4 Q. Do you have any explanation why?

5 A. No.

6 Q. No? Would Jennifer -- was she the type of  
7 person, based on how well you know her -- knew her,  
8 that would -- in order to be dramatic or for  
9 attention or for sympathy or whatever would make a  
10 statement like that?

11 A. She -- was she inclined to be dramatic  
12 sometimes? Yes.

13 Q. Is that the type of statement, true or  
14 not, that you would say, oh, there's no way  
15 Jennifer could have made a statement like that or  
16 is it the type of statement you could say, yeah, I  
17 could see Jennifer making a statement like that?

18 A. It's an awfully exceptionally dramatic  
19 statement. So I'm not sure but --

20 Q. Okay. All right. In your -- so you  
21 would -- that's one thing you're not -- you don't  
22 remember reading it, but that's something that if  
23 it's in the records, you would clearly say that's  
24 not true?

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C04005

APPENDIX 000866

1 A. Correct.

2 Q. Okay. Is there anything else in the  
3 records that you can recall reading and saying to  
4 yourself that's just not true?

5 MR. BOWMAN: That's so broad.

6 MR. DICIANNI: I'm only --

7 MR. BOWMAN: And that's really --

8 MR. DICIANNI: I'm only asking him what he  
9 remembers.

10 MR. BOWMAN: I really object to that because of  
11 overbreadth and vagueness, and also, because of the  
12 lateness of the hour.

13 MR. DICIANNI: Okay.

14 MR. BOWMAN: It's --

15 MR. DICIANNI: You can go ahead and answer.

16 THE WITNESS: I'm trying to remember --

17 MR. BOWMAN: I mean, apart from the fact that  
18 he's accused of killing somebody he didn't? What's  
19 the --

20 THE WITNESS: Yeah. I mean --

21 BY MR. DICIANNI:

22 Q. Well, I'm not talking about the verdict.  
23 I'm talking about something that appeared in a  
24 police report, something that somebody said you

493

1 said that you claim you didn't say, anything like  
2 that.

3 MR. BOWMAN: Same --

4 BY MR. DICIANNI:

5 Q. As you sit here today, can you remember  
6 anything that as you read that, you thought that  
7 just didn't happen?

8 MR. BOWMAN: Same objection. It's massively  
9 broad, vague. There are, as your prior questions  
10 indicated, hundreds of pages of police reports.

11 MR. DICIANNI: Yeah.

12 MR. BOWMAN: You don't have a foundation to ask  
13 that question.

14 BY MR. DICIANNI:

15 Q. You can go ahead and answer.

16 A. I can't think of anything right now.

17 Q. Okay. You left -- you left Bloomington on  
18 August 4th of 1993 after you returned -- well,  
19 strike that. You went to Cincinnati in late July?

20 A. Yes.

21 Q. Returned to -- returned to Bloomington on  
22 August 4th, correct?

23 A. Yes.

24 Q. And then, left that same day --

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1 A. Yes.

2 Q. -- to go home --

3 A. Yes.

4 Q. -- to Rockford, correct? And before you  
5 leaf, you went to see Jennifer?

6 A. Yes.

7 Q. You went to her apartment?

8 A. Yes.

9 Q. Okay. Did you have sex with her that day?

10 A. No.

11 Q. Did you see -- you said you saw the  
12 Swaine Street sign on that day?

13 A. Yes.

14 Q. And where was it?

15 A. It was on the wall above the dart board.

16 Q. And what room of the apartment was that  
17 in?

18 A. It was in the living room.

19 Q. Did you see any other of Michael Swaine's  
20 belongings at the apartment that day?

21 A. I don't remember seeing anything else of  
22 his.

23 Q. During your -- all of your interactions  
24 with the Normal Police were the meeting with

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1 Hospelhorn and Daniels on the 29th of August, the  
2 meetings with Freesmeyer and Brown when they took  
3 your samples, the different meetings you had with  
4 Freesmeyer where you would talk on campus, and  
5 then, the day you were arrested, is that fair to  
6 say?

7 Is that all the interactions you had with  
8 the Normal Police?

9 A. Is that all --

10 MR. BOWMAN: Object to the form of the  
11 question.

12 THE WITNESS: Were instances where they came to  
13 talk to me about Jennifer, you mean?

14 BY MR. DICIANNI:

15 Q. Yeah.

16 A. Was that all of my --

17 Q. Yeah.

18 A. I've been pulled over in Normal. I don't  
19 really even remember whether it was the Normal  
20 Police or the State Police or County Sheriffs or  
21 what.

22 Q. For traffic violations of some type or  
23 something like that?

24 A. I was pulled over and searched once, but

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1    yeah.

2           Q.    Is that -- when was that?

3           A.    That was sometime during my junior year of  
4 college, I think.

5           Q.    Okay. All right. But in connection with  
6 the Lockmiller murder, the meeting on the 29th, the  
7 time you went for the samples, the interview with  
8 John Brown and Freesmeyer at the State's Attorney's  
9 Office, the interviews -- well, the meetings and  
10 discussions with Freesmeyer where you would talk,  
11 and then, the arrest, that was all the interactions  
12 you had with the Normal Police?

13          A.    I can't give you a specific yes or no on  
14 that one. I mean --

15          Q.    Can you remember any other connection --  
16 any other contacts?

17          A.    Well, I mean, I -- what I'm saying is, I  
18 don't know -- I don't know how many times that I  
19 talked to them or necessarily how many times I  
20 talked to John Brown or -- I mean, I can't say  
21 every instance you've mentioned is every instance  
22 that happened. I --

23          Q.    Can you think of any others?

24          A.    I cannot think of any others, no.

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1 Q. Okay. When you left the interview with  
2 Tony Daniels and Rob Hospelhorn on the night of the  
3 29th, that -- you left there thinking that you were  
4 being accused of the murder, is that fair to say?

5 A. Yes.

6 Q. And you relayed that to your parents?

7 A. I felt that I was being accused of  
8 something.

9 Q. Okay. Of something relating to Jennifer?

10 A. Yes.

11 Q. And you had that conversation -- you  
12 relayed that to your parents, that you were  
13 concerned about being accused, correct?

14 A. Yes.

15 Q. And that's what led to the attorney being  
16 retained, correct?

17 A. Yes.

18 Q. And would that have been the only time  
19 that you spoke with Tony Daniels, that night of the  
20 29th?

21 A. The only time I spoke with Tony Daniels  
22 during the investigation?

23 Q. During the investigation.

24 A. Yes.

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1 Q. Okay.

2 A. I think so.

3 Q. Did he raise his voice during that meeting  
4 with you?

5 A. I felt that he was aggressive at times,  
6 yes.

7 Q. Did Hospelhorn say anything?

8 A. I think Tony Daniels was doing all the --  
9 all the questioning.

10 Q. Okay. So Tony Daniels' questioning was  
11 what got you concerned, correct?

12 A. Yes.

13 Q. Okay. And it was Tony Daniels'  
14 questioning that caused you to pick up and leave  
15 when you did, correct?

16 A. Yes.

17 Q. Were you -- you've probably read -- I'll  
18 ask you if you have.

19 You've read some of the taped  
20 conversations that were had with you, where  
21 somebody was wearing a recording device?

22 A. Yes.

23 Q. Did you ever know that you were being  
24 taped?

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1 A. No.

2 Q. Did you think at one time that your  
3 apartment was being bugged?

4 A. Yes.

5 Q. And that would have been later on in the  
6 investigation?

7 A. I -- I think it was more of a -- I'm not  
8 sure exactly when.

9 Q. The times you talked to Michael Swaine,  
10 did you have any inkling that he was wearing a  
11 wire?

12 A. No.

13 Q. In the times you talked to Tim Freesmeyer,  
14 did you have any thoughts at all that he might have  
15 been wearing a wire?

16 A. No.

17 Q. How many times did you go through the  
18 garbage at Jennifer's apartment to look for condoms  
19 or any evidence of her having -- cheating on you?

20 A. Once.

21 Q. Okay. And that was the time when  
22 Swaine -- you found out later Swaine was in the  
23 closet? You're not sure?

24 A. No. It was the day that I left for

500

1 Cincinnati.

2 Q. That was -- oh. Okay. It wasn't a day  
3 when you kicked in the door?

4 A. No.

5 Q. And where was that garbage can?

6 A. It was in her bathroom.

7 Q. Where did she keep -- do you -- can you  
8 describe the clock that was used as the murder  
9 weapon?

10 MR. BOWMAN: I'm going to object to the  
11 question. And you know, it was the -- it's not a  
12 big deal, but just to be clear, it's the cord that  
13 was used as the murder weapon, not the clock.

14 BY MR. DICIANNI:

15 Q. Well, let me rephrase the question. There  
16 was a cord -- as far as you know, there was a cord  
17 that was attached to a clock radio that was used to  
18 kill Jennifer, correct?

19 A. That's my understanding, yes.

20 Q. Okay. And did you ever find out what kind  
21 of clock radio that was?

22 A. I just know that it was a clock radio.

23 Q. Okay. You had stayed with Jennifer when  
24 the two of you were going out, right?

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1 A. Yes.

2 Q. And the last time you had stayed with her  
3 was when?

4 A. I think it's in the record. I really  
5 don't remember specifically.

6 Q. Sometime in June or July of '93?

7 A. Sometime that summer.

8 Q. Yeah. And did you know where the -- did  
9 she have, do you remember, a clock radio in her  
10 apartment?

11 A. Yes, she had a clock radio.

12 Q. Where did she keep it?

13 A. Usually, it was in her bedroom.

14 Q. And what color was it?

15 A. I don't remember.

16 Q. Did you ever turn it on or off?

17 A. Yes.

18 Q. And how would you do that?

19 A. I don't remember whether it had switches  
20 or what. I've had several clock radios in my life  
21 so --

22 Q. Okay. And that was her clock radio?

23 A. That was her clock radio.

24 Q. The day you had the confrontation with

502

1 Michael Swaine at the theater in -- at the  
2 University, you left for Cincinnati the following  
3 day, correct?

4 A. I left for Cincinnati that day.

5 Q. That day. And you gave up that job as the  
6 summer stock -- working for summ -- in the summer  
7 stock program?

8 A. Yes.

9 Q. And that was a coveted job?

10 A. I don't think so, no.

11 Q. No? Was it a credit? Did they give  
12 you -- did you get credit for that?

13 A. No.

14 Q. Were you paid?

15 A. A stipend, yeah. A small amount.

16 Q. So that was not a difficult job to get?

17 A. No.

18 Q. The confrontation or the conflict you had  
19 with your parents on the Thursday, August 26th, I  
20 believe it would have been, that you described,  
21 that's the only time you've ever had any kind of  
22 physical conflict with your parents -- with your  
23 father?

24 A. With my dad?

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1 Q. Yeah.

2 A. Yes.

3 Q. I assume you've never had a physical  
4 conflict with your mother?

5 A. No.

6 Q. And when you grabbed him and the two of  
7 you went onto the bed, you were pushing him onto  
8 the bed, correct?

9 A. I was pushing him away from myself and we  
10 were both landing on the bed, yes.

11 Q. Okay.

12 A. And I was on top of him.

13 Q. All right. And what prompted that was  
14 that he grabbed your lapel and said don't use that  
15 kind of language --

16 A. Right.

17 Q. -- with your mother?

18 A. I don't know if it was my lapel. He  
19 grabbed me.

20 Q. Something? Your jacket?

21 A. I don't know what.

22 Q. Okay. It wasn't something that injured  
23 you or hurt you?

24 A. I think it was my arm, but I --

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1 Q. Okay.

2 A. I was not injured, no.

3 Q. Right. You overreacted, you would agree  
4 with me, in what you did that day.

5 A. Yes, I overreacted.

6 Q. You've never acted like -- anything like  
7 that with your parents before, correct?

8 A. No.

9 Q. And you made the statement -- at the time  
10 just before the conflict when they were questioning  
11 you about the bounced check, you made the statement  
12 something along the lines of I don't need this kind  
13 of thing at this time in my life, isn't that true?

14 A. I don't remember exactly what I said.

15 Q. Okay. Did you consider yourself under  
16 some significant kind of stress or -- at that time?

17 A. I was getting over being hurt by two  
18 people that I was close to and I was hurt.

19 Q. Jennifer and Michael?

20 A. Yeah.

21 Q. So that was heavy on your mind on that  
22 day?

23 A. Yes.

24 Q. And would you say that that had something

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C04017

1 to do with you overreacting physically against your  
2 father?

3 A. I felt that they were -- that my parents  
4 were being -- I felt that they were overreacting to  
5 the bounced check during a time when I needed their  
6 support.

7 Q. And the support you needed was because of  
8 this difficult breakup you were going through?

9 MR. BOWMAN: Object to the form of the  
10 question.

11 THE WITNESS: Difficult breakup that I had gone  
12 through.

13 BY MR. DICIANI:

14 Q. Right.

15 A. And I was wounded. I was hurt by it, yes.

16 Q. Yeah. Okay. When did you find out how  
17 Jennifer was murdered?

18 A. I don't know whether I -- they said  
19 something about that at the bond hearing. I really  
20 don't -- I really don't remember specifically when  
21 I found out how.

22 Q. So you didn't know -- would -- you must  
23 have known she'd been strangled before the bond  
24 hearing?

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1 A. I don't think so.

2 Q. No?

3 A. I don't know.

4 Q. The first time you found out she had been  
5 strangled was in May of 200 -- of 1994?

6 A. I really don't remember.

7 Q. Sometime late -- late in the investigation  
8 or even after you were arrested?

9 A. I really don't remember.

10 Q. Did you ever hear that she had been  
11 stabbed, as well?

12 A. I don't -- I don't know what I heard. I  
13 don't have a recollection of when I found out the  
14 details of her murder.

15 Q. Okay. As you sit here now, is this the  
16 first time you're hearing that she was also  
17 stabbed?

18 A. No.

19 Q. Okay. When did you first find that out?

20 A. Sometime during court proceedings, I think  
21 that was divulged.

22 Q. Your court proceedings?

23 A. During -- sometime during the pretrial  
24 maybe or something like that.

507

1 Q. Okay.

2 A. I really --

3 Q. You never read any media accounts of that  
4 or any other documents?

5 A. I don't know whether that was in the media  
6 or not. I --

7 Q. Okay. Was there a lot of talk about  
8 the -- or a significant amount of talk about the  
9 murder on campus at IWU?

10 A. There was a lot of attention -- a lot of  
11 attention to it, I think, on campus. There were --  
12 I'll just say yes, there was a lot of attention.

13 Q. Were people asking you about it?

14 A. I remember some people asking me if I was  
15 okay or wanting to comfort me, knowing that she was  
16 someone I had cared about and --

17 Q. Did John Murray attend IWU when you were  
18 there?

19 A. Yes.

20 Q. Did -- was there a rumor going around  
21 campus that he had taken a lie detector test and  
22 passed it?

23 A. I don't remember one.

24 Q. Did you -- were you at the post conviction

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1 hearing when the testimony was given?

2 A. Yes.

3 Q. You were in court?

4 A. Yes.

5 Q. Do you remember somebody testifying that

6 it was widely being discussed at IWU that

7 John Murray had taken a lie detector test --

8 A. I don't remember --

9 Q. -- and passed it?

10 A. -- anything like that.

11 Q. No? And you never discussed with

12 John Murray that he had taken a lie detector test?

13 A. No.

14 Q. When -- the day you went to the -- get

15 the -- you went to the grave site, you and Swaine

16 and Murray, correct?

17 A. Chris Carbone --

18 Q. And Carbone.

19 A. -- and John Murray, not Swaine.

20 Q. Not Swaine. Okay. You couldn't find her

21 grave, though, right?

22 A. Carbone knew where it was.

23 Q. Oh. You did find it?

24 A. Yes.

509

1 Q. Okay. I think somebody reported that you  
2 couldn't find it.

3 Did -- you never discussed -- during that  
4 whole visit, he never said anything about having  
5 taken a lie detector test?

6 A. No.

7 Q. Did the subject of a lie detector test  
8 ever come up during that conversation -- during  
9 that meeting that day?

10 A. I don't think so.

11 Q. You knew Carbone took a lie detector test?

12 A. Yes.

13 Q. Did you ever see that photograph with the  
14 Three Stooges in it, where it's written on it  
15 Daniel -- I don't have it, but one cop is --  
16 there's two police and the Three Stooges are in it  
17 and there's Daniels, Hospelhorn, and then, three  
18 guys sitting at a table? Have you ever seen that  
19 photograph?

20 A. I'm sorry. I --

21 Q. No?

22 A. I don't -- I'm not sure. I don't --

23 Q. Okay.

24 A. I don't remember that.

510

1 Q. It's just a curiosity. And the three guys  
2 at the table, there's -- the names underneath them  
3 are Pup, Boner, and somebody else. You were Pup,  
4 right?

5 A. I was known as Pup by some people, yes.

6 Q. And Boner, was that Carbone?

7 A. Yeah.

8 Q. Okay. And somebody else was the third  
9 one.

10 And then, do you know who did that, who  
11 wrote that?

12 A. Wow.

13 MR. BOWMAN: I don't think he can answer that  
14 if he hasn't seen it or doesn't recall it.

15 THE WITNESS: I just don't know. I --

16 BY MR. DICIANI:

17 Q. Okay. Were you and your friends sort of  
18 laughing at Daniels and Hospelhorn as sort of being  
19 kind of stooges of their own?

20 A. I suppose we felt that they were -- that  
21 police were giving unnecessary attention to me and  
22 that that was foolish.

23 Q. Including Daniels and Hospelhorn?

24 A. Yes.

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1 Q. You didn't like Tony Daniels, did you?

2 A. No.

3 Q. And when John Brown was questioning you at  
4 the State's Attorney's Office when you got up and  
5 stormed out, you said to him you're just like  
6 fucking Daniels?

7 A. I believe I said something to that effect,  
8 yes.

9 Q. And when Freesmeyer wanted to keep the  
10 conversation going and asked if he can come see  
11 you, you said to him as long as it's only you? Do  
12 you remember that?

13 A. Yes.

14 Q. Do you recall the statement you made to  
15 Swaine that Jennifer was better off dead?

16 A. I don't believe I phrased it that way.

17 Q. What -- do -- how do you remember it?

18 MR. BOWMAN: You know, I -- there's a  
19 transcript.

20 MR. DICIANNI: Yeah.

21 MR. BOWMAN: And I think that's the right way  
22 to do it. So I object to questioning in this  
23 fashion.

24

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1 BY MR. DICIANNI:

2 Q. Well, then, I'll just -- a statement that  
3 the substance of was the same as she's in a better  
4 place or she's better off dead?

5 MR. BOWMAN: Same objection. I think the  
6 transcript is -- should be presented for this line.  
7 I object.

8 BY MR. DICIANNI:

9 Q. All right. You can go ahead and answer.

10 A. None of my statements to Michael Swaine  
11 about that were ever intended to suggest that  
12 Jennifer was better off dead.

13 Michael Swaine expressed deep grieving  
14 over her death. He was -- appeared to be hurting  
15 and very sorrowful and confused about it. And I  
16 was trying to comfort him.

17 Q. Okay. Weren't you bitter, though, about  
18 Jennifer in that conversation?

19 A. I was wrestling back and forth between  
20 knowing that they had hurt me and knowing that this  
21 was bigger than that and that I needed to be there  
22 for my friend.

23 Q. You made the statement she had dug into  
24 you with a sharp piece of silver in that

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1 conversation?

2 A. She had hurt me.

3 MR. BOWMAN: Same objection.

4 BY MR. DICIANNI:

5 Q. I mean --

6 MR. BOWMAN: You need the transcript for this.

7 I object.

8 MR. DICIANNI: Well, I'm reading from a

9 transcript.

10 BY MR. DICIANNI:

11 Q. You had made the statement that she had

12 dug into you with a sharp piece of silver?

13 MR. BOWMAN: Same objection. The transcript is

14 there.

15 BY MR. DICIANNI:

16 Q. Do you remember that?

17 A. Do you have a copy for me to look at?

18 Q. Do you remember saying something along

19 those lines?

20 I'm not doing this to impeach you about

21 this, whether you made the statement or not. I'm

22 just trying to get your explanation of it.

23 MR. BOWMAN: Well, I mean, you know, the

24 problem is is that, you know, there's a transcript.

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1 And it says what it says.

2 And you know, earlier in this line of  
3 questioning, you put a spin on it that Mr. Beaman  
4 corrected you on.

5 So I think that the fair and the proper  
6 way to do it is to present him with the transcript  
7 if you want to ask him what he meant by that.

8 Then --

9 MR. DICIANNI: Okay.

10 MR. BOWMAN: -- I won't object.

11 MR. DICIANNI: All right. I'll do that. Let's  
12 take a break.

13 THE VIDEOGRAPHER: We are off the record at  
14 5:22 p.m.

15 (A short break was taken.)

16 THE VIDEOGRAPHER: We are back on the record at  
17 5:30 p.m.

18 BY MR. DICIANNI:

19 Q. Okay. Mr. Beaman, when we broke, we were  
20 talking about the conversation you had with  
21 Michael Swaine that was being taped, but you didn't  
22 realize it. Do you recall that?

23 A. Yes.

24 Q. And this would have been on September 8th

515

1 of 1993. Do you remember the date? I'm sure you  
2 don't, correct?

3 A. I don't remember the date.

4 Q. And the statement -- I had mentioned a  
5 statement along the lines of she's better off dead.

6 Would the statement have been, if you can  
7 recall, she's in a better place?

8 A. I did tell him that she was in a better  
9 place.

10 Q. And are you saying that you were -- you  
11 said that, not that you meant it, but that you were  
12 trying to comfort Michael Swaine?

13 MR. BOWMAN: Object to the form of the  
14 question. That's argumentative.

15 THE WITNESS: I believe she's in a better  
16 place. And I wanted to communicate that to  
17 Michael, as well, and I wanted to comfort him with  
18 that.

19 BY MR. DICIANNI:

20 Q. Okay. You also said to her -- I mean to  
21 him -- you and Mike -- you and him were having a  
22 discussion about why God would let something like  
23 this happen.

24 And you said it just happens, shit

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1 happens, and shit happens to you, it happens to me,  
2 it happened to Jen all her fucking life. No matter  
3 what you did, her parents were still going to beat  
4 her up. What did you mean by that?

5 A. I would need to read the context of the  
6 conversation.

7 Q. Yeah. All right. Well, I'll just -- I'll  
8 show you Michael Swaine's statement, which I'm  
9 referring to.

10 MR. BOWMAN: So we're handing the witness the  
11 transcript of the --

12 MR. DICIANNI: Yes.

13 MR. BOWMAN: -- September 1993 --

14 MR. DICIANNI: Yeah.

15 MR. BOWMAN: -- tape?

16 MR. DICIANNI: And we can mark it.

17 THE WITNESS: Michael had been talking about  
18 that he should have been there to protect her. He  
19 was blaming himself, apparently, for not being  
20 there to protect her.

21 And some of what I was saying to him  
22 involved trying to help him understand that it was  
23 not his fault, that he was not responsible for  
24 protecting her, and no matter what he tried to do

517

1 to protect her, he couldn't, that life happens,  
2 that the terrible things that happened in life,  
3 that we have to live through that and overcome.

4 And I was trying to encourage him so that  
5 he would not wallow and blame himself.

6 BY MR. DICIANNI:

7 Q. All right. Do you remember what you meant  
8 by the parents -- by the reference to her parents?

9 A. Jennifer had told me -- do you need this  
10 back?

11 Q. Yeah.

12 A. Jennifer had told me that she had been  
13 taken away from them as a child and that they had  
14 abused her.

15 And then, sometime during our  
16 relationship, she told me that her -- one of her  
17 parents -- I think it might have been her father,  
18 but I don't remember specifically, accused her of  
19 being a slut and hit her.

20 Q. And that was recent to this  
21 conversation -- recent to your relationship with  
22 her?

23 A. It had been sometime during our  
24 relationship.

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1 Q. During your relationship. I'm looking for  
2 the statement about the sharp piece of silver.

3 You don't have a memory of that, of that  
4 statement -- of reading that statement?

5 A. I've read it in the transcript, something  
6 about that.

7 Q. About saying that she stuck you in the --  
8 with a sharp piece of silver?

9 A. I think you're paraphrasing, but it's  
10 something to that effect, yes.

11 Q. Yeah. Do you remember what you meant by  
12 that?

13 A. That she hurt me. I'd have to look at  
14 context --

15 Q. Yeah.

16 A. -- to be sure but --

17 Q. Was the -- was the -- you had several  
18 different times in which you felt like she hurt  
19 you, correct?

20 MR. BOWMAN: I'm sorry. Can I have that  
21 question back?

22 (Whereupon, the record was read.)

23 MR. BOWMAN: Okay.

24 THE WITNESS: Yes.

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1 BY MR. DICIANNI:

2 Q. Was with Swaine the deepest cut?

3 A. I believe so, yes.

4 Q. Did you know that she had had some affair,  
5 I'll call it, with John Murray?

6 A. I suspected it.

7 Q. Did you know that John Murray had sold her  
8 drugs?

9 A. Yes.

10 Q. Did you know that she owed John Murray  
11 some amount of money for drugs?

12 A. No.

13 Q. Did you ever find out how much that was?

14 MR. BOWMAN: Objection. Foundation. He said  
15 he didn't know it.

16 THE WITNESS: Well, do I know it now from --

17 BY MR. DICIANNI:

18 Q. Yeah. That's what I'm --

19 A. -- the investigation --

20 Q. Yeah.

21 A. -- having read the transcripts or did I --

22 Q. Yeah. Yeah.

23 A. I didn't know it then.

24 Q. Right.

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1 A. I don't know.

2 Q. I mean, did you think about that back  
3 then? Did you think that back then?

4 A. Not really, no.

5 Q. Did you -- you and John Murray were  
6 friends at the time?

7 A. We were acquaintances. We sometimes hung  
8 out together.

9 Q. Yeah. You didn't -- it didn't occur to  
10 you that this was a person that might have killed  
11 her back then?

12 A. No, not really.

13 Q. On the other hand, you did think that it  
14 was possible that Bubba may have done it?

15 A. I thought that -- yeah, I thought it was  
16 possible.

17 Q. You never suspected Swaine?

18 A. Not -- not early on, no.

19 Q. Okay. Your conversation with John Brown  
20 and Freesmeyer on the day that you came in to give  
21 the samples, that was not tape-recorded?

22 A. No, I don't think that conversation was  
23 tape-recorded.

24 Q. Do you remember telling Freesmeyer and

522

1 Brown that day that she left you a hollow fucking  
2 shell?

3 A. I'm not sure what I told them specifically  
4 that day.

5 Q. Okay. You had another conversation with  
6 both Alan and Brown -- and this one was the one, I  
7 guess, at the State's Attorney's Office on Oct --  
8 later in October after the day that you gave the  
9 samples.

10 MR. BOWMAN: Do you mean with Freesmeyer and  
11 Brown?

12 MR. DICIANNI: What did I say?

13 MR. BOWMAN: I think you said with Alan and  
14 Brown.

15 BY MR. DICIANNI:

16 Q. With Freesmeyer and Brown?

17 A. Did I have a conversation with them?

18 Q. At the State's Attorney's Office.

19 A. In the building there, yes. I don't know  
20 what office it was in but --

21 Q. And that's the one that ended early,  
22 correct?

23 A. I left.

24 Q. Then, you had another conversation with

523

1 Freesmeyer in Oc -- later in October. And this  
2 would have been outside McPherson Hall?

3 A. I do remember talking to him outside of  
4 McPherson Theater. I don't know what day.

5 Q. Do you recall, is that the time he told  
6 you that you were likely going to be arrested for  
7 Jennifer's death?

8 A. I think that was one of them, yes.

9 Q. Do you recall that you told him that  
10 morning that you did not make any phone calls on  
11 the morning of August 25th?

12 A. I believe he asked me if I made any phone  
13 calls, and because I didn't remember any phone  
14 calls, I said no.

15 Q. Do you recall agreeing with him that you  
16 had a motive to kill her?

17 A. I don't recall agreeing that I had a  
18 motive to kill her.

19 Q. Did you -- do you recall having a  
20 conversation with him about motive to kill  
21 Jennifer?

22 A. I'm not sure.

23 Q. Do you recall admitting to him or agreeing  
24 with him that your -- you did not have an alibi for

524

1 Jennifer's death?

2 A. I don't remember agreeing to that either.

3 Q. Did you disagree with that or do you not  
4 have any memory of it?

5 A. I don't -- I don't remember specifically  
6 him asking me if I had an alibi, other than him  
7 asking me about my whereabouts on other occasions  
8 and --

9 Q. Do you recall telling Simone -- Simone was  
10 your girlfriend after you started school that year,  
11 that '93, '94 school year?

12 A. Yes.

13 Q. Do you remember telling her that you could  
14 never watch Basic Instincts again after Jennifer's  
15 death?

16 A. I don't specifically remember telling her  
17 that, but I don't know.

18 Q. That does not ring any bells?

19 A. I know -- I know that Basic Instinct  
20 became something that somebody wanted to use  
21 against me in court but --

22 Q. Did you have any -- did you link  
23 Jennifer's death in any way to something -- some  
24 scene or something in Basic Instinct?

525

1 A. No.

2 Q. That's the movie with Sharon Stone with  
3 the --

4 A. Yes.

5 Q. -- flashing and all that --

6 A. Yes.

7 Q. -- that became famous? You didn't tell  
8 Tim Freesmeyer about the trip to Bell Federal on  
9 the morning in question because you didn't have any  
10 memory of it? You didn't remember it?

11 A. Not at that time, no.

12 Q. Okay. Swaine described you and Jennifer  
13 as breaking up 18 times. Was that accurate?

14 A. I think so.

15 Q. It was many times?

16 A. It was many times.

17 Q. This -- what's been marked as Exhibit 8,  
18 this is the -- this is the statement -- or the time  
19 line that you made during your meeting with  
20 Freesmeyer and John Brown? Do you recall you  
21 testified about that earlier?

22 A. Yes.

23 Q. You testified that this is your  
24 handwriting on here?

526

1 A. Yes.

2 Q. Now, the Monday, Tuesday, Wednesday,  
3 Thursday, Friday abbreviations, that's not your  
4 handwriting, is it?

5 A. It looks like it is.

6 Q. Well, it looks to me like it isn't. It  
7 looks different from the rest of it. Do you  
8 remember?

9 MR. BOWMAN: Well, I object to the form of the  
10 question. I -- it's -- object to the form.

11 THE WITNESS: I typically printed in all  
12 capitals.

13 BY MR. DICIANNI:

14 Q. Okay. Well, if Freesmeyer said that he  
15 wrote Monday, Tuesday, Wednesday, Thursday, Friday  
16 and you wrote in the rest, does that refresh your  
17 memory that you didn't write in the Monday,  
18 Tuesday, Wednesday, Thursday, Friday?

19 A. I would say that this looks as close to my  
20 handwriting as I could -- I've ever seen.

21 Q. Well, I'm no handwriting expert, but look  
22 at the Ts. Look at the T in Tuesday and Thursday,  
23 and then, look at the Ts in the writing.

24 There's a swirl on the cross on the

527

1 Tuesday and Thursday, and on the Ts in the writing,  
2 it's straight?

3 MR. BOWMAN: That's argumentative.

4 MR. DICIANNI: No, I'm --

5 MR. BOWMAN: It's improper form and it's  
6 just -- it's -- look at, Tom, it's late in the day.  
7 It's almost 6:00 o'clock --

8 MR. DICIANNI: Well, that's not my fault.

9 MR. BOWMAN: Actually, it --

10 MR. DICIANNI: That's not --

11 MR. BOWMAN: -- may or may not be your fault.

12 MR. DICIANNI: Well, it is not my fault.

13 MS. EKL: It's not his fault at all.

14 MR. DICIANNI: So I'm going to ask the  
15 questions --

16 MR. BOWMAN: Okay. It's --

17 MR. DICIANNI: -- I plan on asking. And I  
18 don't have that much more.

19 MR. BOWMAN: It's --

20 MR. DICIANNI: So what's your objection?

21 MR. BOWMAN: My -- thank you. My objection is  
22 is that we had an understanding that we would  
23 exceed the seven-hour limit.

24 And we, you know, have blown through that

528

1 by a significant amount. And you know, we're not  
2 going to sit here indefinitely while you take long  
3 pauses between questions and go through notes and  
4 don't have exhibits ready and just extend this.  
5 We're not going to do that.

6 You said you've got very little more. I'm  
7 going to take you at your word. And there's going  
8 to come a point when it's -- I'm going to stand on  
9 my right to close it off.

10 MR. DICIANNI: Well, everything you've just  
11 said has nothing to do about my -- with my  
12 questions to this exhibit so --

13 MR. BOWMAN: Well, the question is obviously  
14 not a productive question --

15 MR. DICIANNI: That's your --

16 MR. BOWMAN: -- to engage in with this witness.

17 MR. DICIANNI: That's your opinion.

18 MR. BOWMAN: That we haven't established is a  
19 handwriting expert either.

20 MR. DICIANNI: Well, you don't have to be. And  
21 that's your opinion. So let me ask the --

22 MR. BOWMAN: No. That's clear in the record.  
23 He's not a handwriting expert.

24 MR. DICIANNI: Okay. Let me ask the court

529

1 reporter to read back the last question then before  
2 it was -- never mind. Let me just reask the  
3 question.

4 BY MR. DICIANNI:

5 Q. Let me ask you just to look at the Ts and  
6 ask you if that affects your opinion about whether  
7 you wrote in the Monday, Tuesday, Wednesday,  
8 Thursday, and Friday or whether someone else might  
9 have done that?

10 A. If I look at the Ts on the whole page, the  
11 only thing that's consistent about them with each  
12 other throughout the whole document is that they're  
13 capitalized and they're printed.

14 And some of them are a little squigglier  
15 than others, but even some of the Ts in the part  
16 that I don't believe you'll dispute whether I wrote  
17 have differences between them.

18 I tend to scribble, I tend to write  
19 quickly while I print, and I'm sloppy. I can't say  
20 that I'm a handwriting expert and that I know for  
21 sure that that's my handwriting, but I believe it  
22 is.

23 Q. Okay. Good enough. Do you have any  
24 opinions on what caused the jury to -- what

530

1 convinced the jury that you were guilty?

2 MR. BOWMAN: Objection. Foundation.

3 Objection. Relevance.

4 THE WITNESS: I don't believe that there was  
5 evidence to find me guilty.

6 BY MR. DICIANNI:

7 Q. So do you have any opinions about what  
8 caused the jury to find you guilty?

9 MR. BOWMAN: Same objection. Foundation.  
10 Relevance.

11 THE WITNESS: Ignorance.

12 BY MR. DICIANNI:

13 Q. Your defense fees in the criminal case and  
14 for the post conviction proceeding and I suppose  
15 for any of your -- anything else that has been paid  
16 has been paid by your parents, correct?

17 A. Yes.

18 Q. And have you entered into any type of a  
19 promissory note or anything like that with your  
20 parents that would require you to pay them back?

21 A. No.

22 Q. Do you have any kind of a -- any kind of a  
23 deal with them, arrangement with them, agreement  
24 with them that if -- that you are required to pay

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APPENDIX 000905

1 them back?

2 A. No.

3 Q. They paid for your expenses because you're  
4 their son, correct --

5 A. That's correct.

6 Q. -- as far as you know? And that was a  
7 gift, correct?

8 A. They did what they felt they should do.

9 Q. Okay. And in terms of your COI petition,  
10 are you paying for that out-of-pocket or is that  
11 being paid for some other way?

12 A. I'm being represented pro bono.

13 Q. Okay. And in terms of this case, is it a  
14 contingent fee arrangement you have with these  
15 attorneys?

16 MR. BOWMAN: I don't think he needs to answer  
17 that. Don't answer that, Alan.

18 THE WITNESS: Okay.

19 MR. DICIANNI: You instructed him not to  
20 answer?

21 MR. BOWMAN: Yeah. You can instruct me if you  
22 think I'm incorrect, but I don't know what that has  
23 to do with this case.

24 MR. DICIANNI: You're instructing him not to

532

1 answer?

2 MR. BOWMAN: I, as I just said -- if you think  
3 I'm wrong about it, I'll listen to what you have to  
4 say, but yes, I am, unless you --

5 MR. DICIANNI: Well, yeah, we'll --

6 MR. BOWMAN: -- can instruct me that it's --  
7 it's privileged, his arrangements with us. It  
8 doesn't have anything to do with the case.

9 MR. DICIANNI: You have a claim for fees in  
10 your -- you have a claim for fees in your  
11 complaint, don't you?

12 MR. BOWMAN: Yes.

13 MR. DICIANNI: One of the factors that goes  
14 into what fee liability might be is if there was a  
15 contingent fee agreement?

16 MR. BOWMAN: I'm still not tracking. There is  
17 a claim for fees in the complaint --

18 MR. DICIANNI: Right.

19 MR. BOWMAN: -- right. That's because of  
20 Section 1988.

21 MR. DICIANNI: Correct. And one of the issues  
22 that goes into -- one of the factors considered in  
23 fee liability is whether there's a contingent fee  
24 agreement and what that is and what that might be.

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1 MR. BOWMAN: You can answer yes or no whether  
2 there was a contingent fee agreement in this case,  
3 if you understand the question. If you don't  
4 understand it, tell him you don't understand it.

5 THE WITNESS: Well, by contingent fee -- okay.  
6 Can you get --

7 MR. BOWMAN: No. Don't ask him any questions.

8 THE WITNESS: Okay.

9 MR. BOWMAN: Just answer the questions he's  
10 asked you.

11 THE WITNESS: All right. Okay. To answer, I'm  
12 not sure what a contingent fee means.

13 BY MR. DICIANNI:

14 Q. Okay. You talked about you experience  
15 unreasonable anxiety in -- since your release in  
16 certain situations.

17 And what are your -- how does that  
18 manifest itself, this unreasonable anxiety? How do  
19 you feel?

20 MR. BOWMAN: It's been covered already, Tom.  
21 It's been covered already and it's 6:00 o'clock at  
22 night.

23 MR. DICIANNI: Not to my satisfaction.

24 MR. BOWMAN: It's been covered already.

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1 MR. DICIANNI: Not to my satisfaction.

2 MR. BOWMAN: You're going to get a few more  
3 minutes, Tom, and then, we're going to stop.

4 BY MR. DICIANNI:

5 Q. Go ahead.

6 A. Okay. Primarily, when I'm saying that I  
7 experience unreasonable anxiety, I am anxious  
8 about -- I'm afraid what has happened to me will  
9 happen again. I'm afraid that I will be accused of  
10 something else because what has happened can happen  
11 again.

12 I'm afraid that the truth about my  
13 innocence will be hidden by those who have the  
14 information to hide it and that I'll never be able  
15 to have accountability.

16 I'm afraid that if I -- again, I've said,  
17 if I spit my gum in the garbage can, that's going  
18 to somehow lead me to a wrongful conviction now.

19 As far as experiencing anxiety, I feel an  
20 overwhelming surge of energy, for lack of a better  
21 word, that I don't know how to channel.

22 And if I sit down and am patient and make  
23 myself calm down, then after a little bit, I can go  
24 back to whatever it was that I'm doing.

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1 Q. You have not suffered what -- well, do you  
2 know what a panic attack is?

3 A. I believe that's what I'm describing.

4 Q. Have you had nightmares?

5 A. Some, yes.

6 Q. How often do you have nightmares?

7 A. I don't remember all of my dreams, but how  
8 often, I really can't say exactly.

9 Q. Is it something you're still having?

10 A. I'm not sure when the last one I had was,  
11 but I --

12 Q. Well, it sounds like you're not saying  
13 that you're having repeated nightmares that's  
14 causing some kind of sleep deprivation or insomnia  
15 or something like that?

16 A. I don't sleep well.

17 Q. Because of nightmares?

18 A. No, I wouldn't say that it was because of  
19 nightmares.

20 Q. Okay. So it's not causing sleep --  
21 nightmares are not causing sleep deprivation?

22 A. No.

23 Q. Other than the -- other than the one  
24 incident with the gang members in the shower,

536

1 that's the only physical assault you suffered  
2 during your time in prison?

3 A. Yes.

4 MR. DICIANNI: Okay. That's all I have.

5 MR. BOWMAN: Okay. The deposition is  
6 concluded. Signature is reserved.

7 THE VIDEOGRAPHER: This concludes today's  
8 deposition. The time is 6:00 p.m. We are off the  
9 record.

10 (FURTHER DEPONENT SAITH NOT)

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APPENDIX 000911

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF ILLINOIS  
3 CENTRAL DIVISION

4 ALAN BEAMAN, )  
5 Plaintiff, )  
6 vs. ) No. 10 CV 1019  
7 JAMES SOUK, et al., )  
8 Defendants. )

9 This is to certify that I have read the  
10 transcript of my deposition taken in the  
11 above-entitled cause by Elizabeth L. Vela,  
12 Certified Shorthand Reporter, on January 18, 2013,  
13 and that the foregoing transcript accurately states  
14 the questions asked and the answers given by me as  
15 they now appear.

16 \_\_\_\_\_

17 ALAN BEAMAN  
18 SUBSCRIBED AND SWORN TO  
19 before me this \_\_\_\_\_ day  
20 of \_\_\_\_\_ 2013.

21 \_\_\_\_\_

22 Notary Public

23  
24

1 STATE OF ILLINOIS )

2 ) SS:

3 COUNTY OF C O O K )

4 I, Elizabeth L. Vela, a notary public within  
 5 and for the County of Cook County and State of  
 6 Illinois, do hereby certify that heretofore,  
 7 to-wit, on the 18th day of January, 2013,  
 8 personally appeared before me, at 140 South  
 9 Dearborn Street, Chicago, Illinois, ALAN BEAMAN, in  
 10 a cause now pending and undetermined in the United  
 11 States District Court, wherein ALAN BEAMAN is the  
 12 Plaintiff, and JAMES SOUK, et al. are the  
 13 Defendants.

14 I further certify that the said witness was  
 15 first duly sworn to testify the truth, the whole  
 16 truth and nothing but the truth in the cause  
 17 aforesaid; that the testimony then given by said  
 18 witness was reported stenographically by me in the  
 19 presence of the said witness, and afterwards  
 20 reduced to typewriting by Computer-Aided  
 21 Transcription, and the foregoing is a true and  
 22 correct transcript of the testimony so given by  
 23 said witness as aforesaid.

24 I further certify that the signature to the

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1 foregoing deposition was reserved by counsel for  
2 the respective parties.

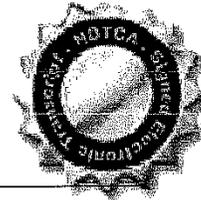
3 I further certify that the taking of this  
4 deposition was pursuant to Notice, and that there  
5 were present at the deposition the attorneys  
6 hereinbefore mentioned.

7 I further certify that I am not counsel for nor  
8 in any way related to the parties to this suit, nor  
9 am I in any way interested in the outcome thereof.

10 IN TESTIMONY WHEREOF: I have hereunto set my  
11 hand and affixed my notarial seal this 21st day of  
12 January, 2013.

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*Elizabeth A. Vela*



NOTARY PUBLIC, COOK COUNTY, ILLINOIS

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1                   McCorkle Litigation Services  
2                   200 N. LaSalle Street, Suite 2900  
3                   Chicago, Illinois 60601-1014

4   DATE: January 21, 2013  
5   MR. LOCKE E. BOWMAN  
6   BLUHM LEGAL CLINIC  
7   NORTHWESTERN UNIVERSITY SCHOOL OF LAW  
8   375 East Chicago Avenue  
9   Chicago, IL 60611

10   IN RE: BEAMAN vs. SOUK  
11   COURT NUMBER: 10 CV 1019  
12   DATE TAKEN: January 18, 2013  
13   DEPONENT: SCOTT SMITH  
14   Dear Mr. Bowman,  
15   Enclosed is the deposition transcript for the  
16   aforementioned deponent in the above-entitled  
17   cause. Also enclosed are additional signature  
18   pages, if applicable, and errata sheets.

19   Per your agreement to secure signature, please  
20   submit the transcript to the deponent for review  
21   and signature. All changes or corrections must be  
22   made on the errata sheets, not on the transcript  
23   itself. All errata sheets should be signed and all  
24   signature pages need to be signed and notarized.  
25   After the deponent has completed the above, please  
26   return all signature pages and errata sheets to me  
27   at the above address, and I will handle  
28   distribution to the respective parties.

29   If you have any questions, please call me at the  
30   phone number below.

31   Sincerely,

32   Margaret Setina  
33   Signature Department

34   Court Reporter  
35   Elizabeth L. Vela

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THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF ILLINOIS  
PEORIA DIVISION

ALAN BEAMAN,	)	
	)	
Plaintiff,	)	NO. 10-CV-1019
	)	
-vs-	)	
	)	
JAMES SOUK, Former Assistant State's	)	
Attorney, CHARLES REYNARD, Former	)	
McLean County State's Attorney,	)	
TIM FREESMEYER, Former Normal Police	)	
Detective, ROB HOSPELHORN, Former	)	
Normal Police Detective, DAVE WARNER,	)	
Former Normal Police Detective,	)	
JOHN BROWN, Former Normal Police	)	
Lieutenant, FRANK ZAYAS, Former	)	
Normal Police Lieutenant,	)	DEPOSITION OF
COUNTY OF McLEAN, ILLINOIS, and	)	<b>CAROL JEANNE BEAMAN</b>
TOWN OF NORMAL, ILLINOIS,	)	
	)	
Defendants.	)	

The deposition of Mrs. Carol Jeanne Beaman, called as a witness on behalf of Defendants James Souk, Charles Reynard, John Brown and the County of McLean, Illinois, in the above-entitled action, taken before Amy R. Campos, Certified Shorthand Reporter and Registered Professional Reporter, at Elite Reporting Services, Ltd., 4320 Spring Creek Road, Rockford, Illinois, on March 29, 2013, at 9:30 a.m.

C04081

Plaintiff's Exhibit No. 3

APPENDIX 000942

1 started dating Jen, my father was very ill and died. My  
2 mother, we found out, was -- had dementia and he had been  
3 covering for her. So we're dealing with all of this. The  
4 week he died was the week I started my graduate program.

5 MR. GRILL: Uh-huh.

6 THE WITNESS: I was a full-time student and a  
7 full-time teacher at the same time --

8 MR. GRILL: You testified to this before.

9 THE WITNESS: -- for the next two years. Yeah.

10 MR. GRILL: Yeah, I'm aware of that.

11 THE WITNESS: So in terms of what you worry  
12 about, what you put the most importance on, it becomes how  
13 much can I handle on my plate.

14 Through most of -- well, until after Alan had  
15 actually been arrested -- my mother died within a month of  
16 his being sentenced. She never knew that. She never  
17 understood that.

18 The last communication we had with her was the  
19 week after Freesmeyer interviewed her when she had a  
20 massive stroke. Up to that time she kept saying, I don't  
21 know why this cop from Normal kept asking me these  
22 questions.

23 MR. GRILL: Okay.

24 THE WITNESS: That's the last communication. So

C04177

1 Q. And that reflects your mathematical background  
2 and your background as an amateur astronomer, right?

3 A. Right.

4 Q. And your husband also was an engineer and also  
5 is an astronomer, too, right?

6 A. That's correct.

7 Q. So it's your nature as a scientific and  
8 mathematical person to want empirical proof, right?

9 A. That's right.

10 Q. But as Alan's mother, was there ever any doubt  
11 in your mind whatsoever that Alan was not capable of  
12 murder?

13 A. Careful how you state that.

14 Q. Well, all right. Was --

15 A. Was there any doubt that he was not capable or  
16 was there any doubt that he was capable?

17 Q. Okay, all right. Let me ask a better question.

18 Did you ever think that it was possible that  
19 Alan would be capable of murder?

20 A. No.

21 Q. Okay. One more question regarding . . . Let me  
22 direct your attention, if I could, to Exhibit 5, which is  
23 the letter to the judge, Judge . . .

24 A. Freese.

C04373

Plaintiff's Exhibit No. 4

COUNTY OF MC LEAN  
IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT  
STATE OF ILLINOIS

GRAND JURY PROCEEDINGS

June 30, July 7, and 14, 1994

RECEIVED

AUG 04 1994

Regarding ALAN W. BEAMAN,

First Degree Murder  
(Two Counts)

STATES ATTORNEY'S OFFICE  
MCLEAN COUNTY

Mr. James Souk, Assistant State's Attorney  
on behalf of the People

Laura J. Ruff  
Court Reporter  
Route 1 Box 185  
Gridley, IL 61744

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COUNTY DEFS. INI. R26 002784

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(599)

APPENDIX 000945

Witnesses:

MITCHELL OLSON

Examination by Mr. Souk..... 3  
Examination by Grand Jury..... 18

CAROL JEAN BEAMAN

Examination by Mr. Souk..... 23  
Examination by Grand Jury..... 91

BARRY BEAMAN

Examination by Mr. Souk.....100  
Examination by Grand Jury.....121

C04379

COUNTY DEFS. INI. R26 002785

C 700

Witnesses:

July 7, 1994

TIMOTHY JOHN FREEMEYER

Examination by Mr. Souk..... 126  
Examination by Grand Jury..... 259

July 14, 1994

TIMOTHY JOHN FREESMEYER

Examination by Mr. Souk..... 280  
Examination by Grand Jury..... 287  
Recalled, Examination by Mr. Souk..... 420  
Examination by Grand Jury..... 423

DENNIS CLARK

Examination by Mr. Souk..... 298  
Examination by Grand Jury..... 309

CLIFFORD GRAY

Examination by Mr. Souk..... 312  
Examination by Grand Jury..... 327

ALAN W. BEAMAN

Examination by Mr. Souk..... 330  
Examination by Grand Jury..... 413

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COUNTY DEFS. INI. R26 002786

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(Whereupon the Assistant State's Attorney informed the Grand Jury of its rights pursuant to Illinois Revised Statutes.)

MITCHELL OLSON

having been first duly sworn, was examined upon oral interrogatories and testified as follows:

EXAMINATION BY MR. SOUK:

Q Would you state your name Sir?

A Mitchell Olson.

Q You want to spell your last name?

A O-L-S-O-N.

Q Where do you live?

A I live in Rockford.

Q What's your address there?

A [REDACTED] [REDACTED] [REDACTED].

Q Where are you employed?

A At Christ United Methodist Church.

Q What is the nature of your employment there?

COUNTY DEFS. INI. R26 002787

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~~Q 687~~

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APPENDIX 000948

A I am the Director of the Youth Ministries and music.

Q Is that fulltime employment?

A Yes it is.

Q How long have you been employed there?

A About six years.

Q In that capacity, do you know Carol and Barry Beaman and their son, Alan Beaman?

A Yes I do.

Q Do you know them because they're members of your church?

A Yes I do.

Q How long have you known them?

A I believe I met them about, shortly after the time when we arrived. Alan was back in the high school age at that point.

Q Did you have some contact with him in your youth ministry when he was in high school?

A Yes I had.

Q Are the elder Beamans active participants in your church and its activities?

A Yes they are.

Q Was Alan Beaman an active participant when he was in high school?

COUNTY DEFS. INI. R26 002788

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APPENDIX 000949

A Yes he was.

Q Has that changed somewhat since he's gone off to college?

A Yeah. I've tried to stay in touch with him.

Q When he's home during the summer times, is he in regular attendance at the church?

A Off and on. He's a musician, and being that I'm a musician, that's been a connection we've always shared. So that's always been a good way for us to kind of relate to each other.

Q Calling your attention to last summer of 1993, did you have occasion during August of that month to be involved with Alan Beaman and him doing some musical presentation at your church?

A Yes I did.

Q Was that the first time he had ever done anything like that?

A No it was not.

Q Was that the first time he had done that last summer?

A Right, that summer. We had talked about it like when he first came home. You know, we just said let's get together sometime by August before you go home. That was the extent of it. As we did this summer,

COUNTY DEFS. INI. R26 002789

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APPENDIX 000950

you know.

Q So would it be typical for him to maybe sing or do something at church like once when he was home during the summer?

A Yeah, once or twice. We don't have a regular choir that meets so we fill it in with soloists and stuff.

Q He sings?

A He sings and plays.

Q Plays which instruments?

A He plays the guitar and saxophones, the soprano. Actually plays quite a bit like Kenny G. He's very good, very good.

Q Now the arrangements that you made for him to perform at your church in August of '93, what Sunday was that for?

A It was just a regular Sunday. There was an ice cream social on that Wednesday and I knew I'd be there and that he was--we had arranged that that would be a time his parents were coming in so we just all sorta decided that would be a good night to rehearse.

Q The ice cream social was Wednesday night, August 25th?

A That's right.

COUNTY DEFS. INI. R26 002790

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Q So the actual singing performance would have been--

A The following Sunday.

Q The following Sunday which was the 29th I think?

A Right. And he still performed. I was unaware of some of the things that had occurred.

Q When he performed that following Sunday morning, you didn't know anything about the situation down here with Jennifer Lockmiller?

A No.

Q Now you had seen him at church I believe briefly the previous Sunday, the 22nd?

A I think I saw him after church. We just scheduled, you know, talked about meeting, you know, Wednesday. You know, I've replayed this tape, you know how that is, over and over in your mind to try to find out. I believe I made some sort of a connection. I was looking through my schedule trying to figure out where I would have been that day. I want to say that I talked to somebody at the house to confirm our appointment that night because I knew that he would be late for the ice cream social, and I don't remember talking about that on Sunday, which was the only other

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APPENDIX 000952

print is right here beside Mike's print. We've not been able to rule out Jennifer because we didn't get the sides. We haven't been able to rule it to be Beaman's. We haven't been able to rule out Swaine.

Q Are there any smudge prints or anything up on the numbers, on the buttons where you set the time?

A There were a ton of smudge prints on the clock. However to get good ones that you can read and that you can match up, these were the six they were able to match up.

BY MR. SOUK: One other thing, let me ask you about the prints. From your investigation, would it be your information that during the term of their relationship up until sometime mid or late June of '93 that Mr. Beaman would have stayed there overnight for sexual purposes or whatever, but that he never lived with Jennifer?

A That's correct. He would stay there over night but he never did actually live with her.

BY MR. SOUK: During this period from mid August up until the murder, had Mr. Swaine actually moved in temporarily?

A Yes, for about a week he was living there. All his stuff was on the top bunk bed in the room, so if

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IN THE CIRCUIT COURT  
 FOR THE ELEVENTH JUDICIAL CIRCUIT  
 McLEAN COUNTY, BLOOMINGTON, ILLINOIS

THE PEOPLE OF THE STATE OF )  
 ILLINOIS, )  
 )  
 Plaintiff-Respondent, )  
 vs. )  
 )  
 ALAN W. BEAMAN, )  
 )  
 Defendant-Petitioner. )

No. 94 CF 476  
**FILED**  
 AUG 10 2005  
 McLEAN COUNTY  
 CIRCUIT CLERK

CONTINUED HEARING ON SECOND VERIFIED AMENDED PETITION FOR  
 POST-CONVICTION RELIEF

**TRANSCRIPT OF PROCEEDINGS (VOLUME I)**

BE IT REMEMBERED and CERTIFIED that on, to wit:  
 the 14th day of January, 2005, the following proceedings were  
 held in the aforesaid cause before The Honorable  
 JEFFREY B. FORD, Associate Circuit Judge.

APPEARANCES:

MR. MARK MESSMAN Assistant State's Attorney On behalf of the People	MR. JEFFREY URDANGEN Attorney at Law On behalf of the Defendant
MS. KAREN DANIEL Attorney at Law On behalf of the Defendant	MS. JACQUELINE JOHNSON Pursuant to Supreme Court Rule 711, On behalf of the Defendant

Amy Jennings, CSR, RPR  
 Official Court Reporter  
 IL CSR No. 084-004135

C04800

Plaintiff's Exhibit No. 5

APPENDIX 000954

1 distances. Were there other details that you noted on this  
2 first study?

3 A. Well, there were details about speed limits, the  
4 amount of traffic, and the general area that we were driving  
5 through.

6 Q. At what point did you mark the end of your time  
7 trial?

8 A. The time trial ended once she pulled into the  
9 parking lot at Wal-Mart and parked her vehicle and stopped.

10 Q. And what was the distance that you measured from the  
11 Beaman residence to the Wal-Mart?

12 A. It was 10.6 miles.

13 Q. Was this the same distance you measured for all  
14 three of your trials?

15 A. Yes.

16 Q. And, on this first trial, what was the recorded  
17 drive time?

18 A. Twenty minutes.

19 Q. Directing your attention to the second time trial  
20 you conducted. How did you conduct the second test?

21 A. Actually, the second and third tests I conducted by  
22 myself in my own vehicle. But, again, I recorded details of,  
23 you know, where I was at, at what time, and what the mileage  
24 was on a small tape recorder.

1 impact of it?

2 A. Yes.

3 Q. Now, to revert back to your other question. Alan  
4 Beaman never told you what route he took -- told you, did he?

5 A. I don't recall that he ever did, sir.

6 Q. And yet at the trial you indicated to the jury that  
7 with certainty, with some degree of certainty, that he drove  
8 through the town; did you not?

9 A. I don't recall that I -- and I may be corrected. I  
10 may have to look at the transcript, sir, but I don't recall  
11 telling the jury that Alan drove through town.

12 Q. Okay. Let me read you from the transcript.

13 A. Please do.

14 Q. Tell me if you gave this answer to this question.  
15 This is Mr. Souk asking you a question.

16 "Question: The first slide that we are looking at,  
17 People's Exhibit 70-AX, could you tell us what's depicted on  
18 this slide, Detective?

19 Answer: Yes, sir. That is -- what this is is  
20 basically a blowup of a picture of Rockford out of a road  
21 atlas. Over the top of that I've done an overlay on the  
22 computer which shows the route in yellow that Alan would have  
23 taken from Bell Federal Bank to his residence in Rockford."

24 Did you give that answer to that question?

1 Q. And tell us -- tell the judge what other people you  
2 investigated as to who might have made those calls?

3 A. We did not investigate anybody else who made those  
4 calls.

5 Q. Who else had access to the house other than Mr.  
6 Beaman?

7 A. I have no idea.

8 Q. And Mr. Beaman was at work. You know that from your  
9 investigation, right?

10 A. Yes, Mr. Beaman, Alan's father, was at work.

11 Q. Then tell us the other -- did you -- was this ever  
12 raised in your testimony about somebody else who could have  
13 made those calls?

14 A. I don't believe it was, sir.

15 Q. Did Mr. Souk ever ask you about that?

16 A. I don't believe he did.

17 Q. Did you investigate whether it was plausible or not  
18 for Carol Beaman to have made those phone calls?

19 A. Yes, I did.

20 Q. What did you do?

21 A. I drove the distances from her home to the various  
22 places where she had shopped indicated from the receipts that  
23 she had provided to us after Alan's arrest.

24 Q. And one of the places that you knew she was at was a

1 Q. Really? Take a look at the transcript, sir, and  
2 tell me if it isn't true that you volunteered that information  
3 that there was no video.

4 (Brief pause.)

5 A. I stand corrected, sir. I did volunteer that  
6 answer.

7 Q. (By Mr. Urdangen) Thank you.

8 MR. MESSMAN: Can I ask what page we are looking at?

9 MR. URDANGEN: Same page, 77.

10 Q. (By Mr. Urdangen) But, indeed, you read where you  
11 told the jury that you called about a videotape, correct?

12 A. Yes, I did.

13 Q. Now, did you test the drive time between Carol  
14 Beaman's residence -- Alan's Beaman's residence, forgive me,  
15 and the Wal-Mart?

16 A. Yes, I did.

17 Q. And why did you do this?

18 A. To see about drive times between the residence, to  
19 see if Carol Beaman would have been the person making that  
20 phone call or could have been the person making the phone  
21 call.

22 Q. And what did you determine?

23 A. I, again, would have to look at my police report to  
24 see what the mileages were, sir.

1 Q. Well, how long did it -- did you time the test?

2 A. Yes, I did.

3 Q. And how long did it take you to make that drive?

4 A. Sir, I would have to look at my police report to see  
5 how long that took.

6 Q. Show you Group No. 5.

7 A. Yes. From the Beaman residence to Wal-Mart it took  
8 me 15 minutes.

9 Q. All right. Is that a -- was that a guess by you?

10 A. No, sir. It would have been the timing on my watch  
11 or stopwatch, whatever mechanism I was using at the time.

12 Q. All right. Did you give this answer to this  
13 question by Mr. Souk during the trial:

14 "Question: Well, let's -- did you do some driving  
15 while you were there?

16 Answer: Yes, sir, I did.

17 Question: Let's go through that, if you would.

18 Answer: Okay. I left the Beaman residence at 9:13  
19 a.m. and arrived at Wal-Mart at approximately 9:28 a.m."

20 Why did you say "approximately"?

21 A. Probably habit, sir.

22 Q. Habit?

23 A. Yes. In --

24 Q. Wouldn't -- go ahead.

1           A.    In the ten years of my policing, unless you have an  
2 exact number, then you would approximate. And if there is any  
3 way that that number could be off by any smidgen, you would  
4 approximate.

5           Q.    So, was your drive through the city to get between  
6 the bank and the house an approximation?

7           A.    I -- I guess you could say so, because my speed  
8 could have varied. My watch -- I mean, there is any number of  
9 things that could have caused that to be less than an exact  
10 time.

11          Q.    So you feel -- you felt it was important to say  
12 approximately on the Wal-Mart test?

13          A.    Yes, sir.

14          Q.    What was the method of timing on this one?

15          A.    It would have either been my watch or a stopwatch,  
16 sir, and I don't have an independent recollection of which I  
17 would have used.

18          Q.    Do you have a record of that?

19          A.    I don't believe it's in my report.

20          Q.    What route did you take between the Beaman residence  
21 and the Wal-Mart?

22          A.    Sir, from memory, I assume I would have taken the  
23 most direct route. I don't recall as I sit here today exactly  
24 what route I took.

1 Q. Well, you've looked at your report about this just  
2 now, right?

3 A. Yes, I have.

4 Q. Is it in there?

5 A. No, I don't believe the route that I took is in  
6 there. It may have been on the overhead map that we would  
7 have drawn for the courtroom.

8 Q. Well, when you drew the overhead map to use during  
9 the trial, what were you using to draw that map about the  
10 route that you took?

11 A. I don't understand the question, sir.

12 Q. Did you draw a -- did you use an overhead map at  
13 trial to describe the route you drove from the Wal-Mart to the  
14 Beaman -- from the Beaman residence to the Wal-Mart?

15 A. Yes, I did.

16 Q. Who -- who prepared that map?

17 A. I prepared that, sir.

18 Q. Okay. And did you prepare it from?

19 A. It would have been my notes of when I was driving.

20 Q. All right. So you had notes about your route?

21 A. Yes, I did.

22 Q. Where are those notes?

23 A. Those notes were destroyed after they were put into  
24 proper form for the courtroom.

1 into the Wal-Mart store.

2 Q. In your deposition when you said, "Let's go on the  
3 side of error and assume that I didn't get out of the  
4 vehicle," are you talking about going into the parking lot?

5 A. Yes, sir.

6 Q. And that -- that -- were you driving the speed limit  
7 when you made that trip in 15 minutes?

8 A. Sir, unless it's indicated in my report, I do not  
9 recall.

10 Q. Well, you have it up there. Why don't you tell us  
11 if it's in your report.

12 (Brief pause.)

13 A. No, sir, it's not in my report.

14 Q. (By Mr. Urdangen) Thank you. All right, so there  
15 is no notation. How fast did you drive?

16 A. Sir, I don't recall as I sit here today how fast I  
17 drove.

18 Q. Well, was -- was it an important fact how -- whether  
19 or not Carol Beaman could have made it to the Wal-Mart in time  
20 to do her shopping?

21 A. Yes, it is an important fact.

22 Q. Why is that important?

23 A. Because it determines who had the ability to make  
24 those phone calls, sir.

1 store to try to replicate the shopping trip?

2 A. No, sir.

3 Q. You had a receipt with the items that were  
4 purchased, correct?

5 A. I physically -- I did not have that with me. I'd  
6 seen a photocopy of that earlier, and it was in evidence.

7 Q. So when you saw it, you didn't make a copy for your  
8 file?

9 A. I don't think I did. I may have. I don't recall,  
10 sir.

11 Q. Do you think -- would it have been more accurate to  
12 try to replicate the shopping trip?

13 A. Sitting here today, yes. But I could not have  
14 replicated how busy the store would have been on that  
15 particular day, how many people were in the store, how many  
16 lanes would have been opened. So, no, I did not replicate  
17 exactly Carol's shopping experience.

18 Q. What was the date that you went on this time trial?

19 A. This date was January 18th of 1994.

20 Q. And the date in question was August 25th of '93,  
21 right?

22 A. Yes, sir.

23 Q. Did you think that that accurately replicated what  
24 the traffic would have been like going on different dates like

1 that?

2 A. No, sir. I did not assume that traffic would be  
3 exactly the same.

4 Q. Did you -- did you know in your investigation that  
5 this was right before school was going to start, August 25th  
6 of '93?

7 A. School for who, sir?

8 Q. For Carol Beaman?

9 A. Grade school you mean?

10 Q. Yes, Auburn High School?

11 A. Yes, I was aware school would be starting next week.

12 Q. Okay. Did you try to estimate how more or less  
13 crowded the Wal-Mart would be on the day or two before school?

14 A. No, sir, I didn't.

15 Q. Did you go in to look and see how long the lines  
16 were?

17 A. No, sir.

18 Q. Did you do anything to determine how long the  
19 typical credit card processing took?

20 A. No, sir, I don't believe I did.

21 Q. Why not?

22 A. I didn't find it as that crucial to go all the way  
23 in, sir, would be my only guess. I don't -- let me back up.  
24 I don't know why I didn't do it at that time. Sitting here



1 over from working the night shift.

2 Q Okay. And what is your status at the present time  
3 with respect to graduation from Wesleyan?

4 A I will be graduating in May. I have completed all  
5 my requirements, so I'm just waiting to go through ceremony.

6 Q What will you receive your degree in?

7 A Technical theater.

8 Q Okay. In August of 1993, what was your remaining  
9 anticipated time to complete your degree?

10 A A year.

11 Q Okay, is it correct that you were one class short  
12 by the time you finished that next year that you still  
13 needed to complete?

14 A Yes, sir.

15 Q The last semester that you attended then prior to  
16 right now was what semester?

17 A The last semester was last fall, this past fall.

18 Q And through December?

19 A Yes.

20 Q How soon did you start working again at Gray's IGA  
21 at that time?

22 A Shortly after Christmas.

23 Q So you were at Wesleyan for like four and a half  
24 years?

1640

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APPENDIX 000966

1 A Yes.

2 Q Okay. During the period of time that you attended  
3 Illinois Wesleyan, how did you spend the summer in each of  
4 those years?

5 A The first year I believe I went back to Rockford  
6 for the summer and worked out at Starlight Theater as a  
7 technical assistant. And then the second summer I worked  
8 here for the summer program for the first two months of the  
9 summer, and then I went back to Rockford for the last month  
10 and worked for my uncle, and as well as the third summer.  
11 And then the fourth summer I went back to Starlight for the  
12 summer.

13 Q During the -- during the school term while you  
14 were at Wesleyan, did you have on-campus or off-campus  
15 housing, university or non-university housing in each of  
16 those school terms?

17 A I had university housing up through my senior  
18 year, and then the extra semester I stayed I had my own  
19 apartment.

20 Q During the summers when you were here in the  
21 Bloomington/Normal area, what type of housing arrangements  
22 did you have?

23 A Both times I lived at an apartment, 1406 N. East  
24 Street.

1641

C05091

AB018906

APPENDIX 000967

- 1 Q And you heard the description about that being  
2 like leased by the drama department?
- 3 A Correct.
- 4 Q Was that the arrangement in each case?
- 5 A Yes.
- 6 Q What was the number of students involved in the  
7 summer program?
- 8 A Fifteen to 20.
- 9 Q Okay, but in the unit that you had?
- 10 A Oh, in the unit I had, four.
- 11 Q Okay. And in each of those summers, did you have  
12 roommates in your apartment?
- 13 A Yes.
- 14 Q And were there a group of other summer students in  
15 the other apartments each time?
- 16 A Yes, they were different places that they had.
- 17 Q What, what car were you driving in the period of  
18 August of '93?
- 19 A A beat-up '87 Ford Escort.
- 20 Q And when had you first begun driving that car as  
21 your regular vehicle?
- 22 A I began driving that the summer after my sophomore  
23 year, so summer of '92. Is that right?
- 24 Q Who had had it before you?

1642

C05092

AB018907

APPENDIX 000968

1 A My parents.

2 Q After you received that car, where, where did you  
3 have any mechanical work done that the car needed?

4 A Dennison Ford when I was down here. Occasionally  
5 I would take it like to Goodyear or places like that up in  
6 Rockford for whatever, generally for just like fluid changes  
7 and stuff like that there.

8 Q Was there any work on that car that you performed  
9 yourself over the time that you had it?

10 A Changing the oil occasionally.

11 Q Let me show you what I've marked for  
12 identification as Defendant's Exhibits 52 and 52-A thru G  
13 inclusive, and ask you if you can identify those as records  
14 from Dennison Ford?

15 A Yes, sir.

16 Q Do those exhibits, that entire grouping, 52 thru  
17 the group A thru F, I believe -- G, represent each occasion  
18 on which you had the vehicle in to Dennison for service of  
19 any kind?

20 A Yes, sir.

21 Q And is the first sheet in that series of exhibits,  
22 Exhibit 52, is that a computer print-out from Dennison  
23 corresponding with each of the individual itemized invoices?

24 A Yes, it is.

1643

C05093

AB018908

APPENDIX 000969

1 Q Are these invoices in the condition and containing  
2 the same information that they had on each occasion when you  
3 received the invoice from Dennison?

4 A Yes.

5 Q Okay. Did you take the car in on each of the  
6 occasions that it went in for these services?

7 A Sometimes it had to be towed, but on all the other  
8 occasions I drove it in, yes.

9 Q At anytime while you had the use of that vehicle,  
10 did you ever take it anyplace to have any work done that  
11 involved the instrument cluster, or the odometer, or the  
12 cable to the odometer?

13 A No.

14 Q Did you, yourself, ever have occasion to do  
15 anything with it that involved the instrument cluster, like  
16 the odometer or portions of the cable to that cluster?

17 A No, I did not.

18 Q Have you ever had any automotive training?

19 A No.

20 Q Have you had anything even in -- in high school in  
21 connection with automotive servicing or the operation of an  
22 automobile?

23 A No formal training, just tinkering with a Bug I  
24 use to have.

1644

C05094

AB018909

APPENDIX 000970

1 Q By a Bug, you mean a Volkswagen?  
2 A Yes.  
3 Q And what's the most extensive sort of thing that  
4 you did with that Bug?  
5 A I took out the engine, cleaned it all up, and put  
6 it back in.  
7 Q Okay. Do you recall the date in May of '94 when  
8 you were arrested?  
9 A Yes.  
10 Q At the time you were arrested, Alan, where were  
11 you?  
12 A I was on Kilburn Avenue.  
13 Q I'm sorry, May of '94 when you were actually  
14 arrested.  
15 A Oh, when I was arrested here?  
16 Q Yes, right.  
17 A I was in the student center dining commons and  
18 Officer Freesmeyer came up and asked me if I would step  
19 outside with him.  
20 Q Okay. I'm asking you the date, the time, not what  
21 happened.  
22 A May 17th, approximately six o'clock.  
23 Q Okay. And at that time where was your Escort?  
24 A It was in the cabana behind the student center

1645

C05095

AB018910

APPENDIX 000971

1 parking lot.

2 Q Is that a parking area?

3 A Yes.

4 Q How had it gotten to that location?

5 A I drove it back from Dennison Ford to that  
6 location before I went to dinner.

7 Q Did you ever drive that vehicle again after  
8 leaving it there that day?

9 A No.

10 Q To the best of your knowledge, has that vehicle  
11 been drivable since that day?

12 A No, it has not.

13 Q What is your understanding is the mechanical  
14 problem with that vehicle?

15 A Either a cracked head or possible cracked engine  
16 block.

17 Q There's been testimony that during August you had  
18 done some work attempting to install a tape deck in your  
19 Escort?

20 A Yes.

21 Q Did you ever do anything similar to that with any  
22 vehicle previously?

23 A No.

24 Q Have you done any work about the radio, or tape

1646

C05096

AB018911

APPENDIX 000972

1 deck, or speakers, or anything of that nature in any  
2 vehicle?

3 A No.

4 Q Other than --

5 A Other than that one, no.

6 Q Did you ever get that tape deck installation  
7 completed?

8 A Not really.

9 Q You saw photographs during the trial of wires  
10 coming from the area where the tape deck perhaps should go?

11 A Yes.

12 Q And those pictures were apparently taken in  
13 December of this last year, correct, when they did that  
14 joint examination of the car?

15 A Correct.

16 Q How did those pictures compare with the car in  
17 that part of the car, the tape deck and such, when you last  
18 saw it?

19 A That's how it was.

20 Q Where was the tape deck sitting?

21 A Under the seat.

22 Q And the wires that came back and forth there, did  
23 they somehow connect the battery and the speakers?

24 A Yes.

1647

C05097

AB018912

APPENDIX 000973

1 Q Okay. How long did it take you to accomplish a  
2 job like that?

3 A Three hours, four hours, it took me awhile.

4 Q Have you had what might be considered technical  
5 training during your lifetime?

6 A Training in the areas of technical theater, yes.

7 Q Did any of that involve taking automobiles on  
8 stage and working on them?

9 A No, sir.

10 Q How about the work you did when you were younger  
11 at Woodward where your father works, what kind of stuff did  
12 you do for them?

13 A That was all assembly line, inspection of a  
14 150,000,000 of the same little-bitty part over and over  
15 again, and in heat-treat I put epoxy on a string and  
16 connected it to another piece and put a stack of those in an  
17 oven. It was fairly simple.

18 Q Okay. On earlier times, I think at the grand  
19 jury, Mr. Souk had asked you about your technical expertise.  
20 Is that about what your technical expertise amounts to,  
21 heat-treat and theater?

22 A Yes.

23 Q What things are generally involved in technical  
24 theater?

1648

C05098

AB018913

APPENDIX 000974

1           A     Electrics, generally I deal with large cable, and  
2 essentially run cable for lighting instruments and run cable  
3 for sound. It's mostly on a very direct level.

4           Q     What do you mean by that?

5           A     All I do is set things up. If something is broken  
6 beyond repair, we generally send in the light boards and the  
7 sound boards and things like that, somebody else to repair  
8 them. All I really deal with is basically electricity.

9           Q     Okay. Besides the electrical, what type of  
10 technical theater are you trained in?

11          A     Carpentry.

12          Q     Anything beyond that?

13          A     I design both lighting and scenery as well.

14          Q     Okay. Carpentry, making set fixtures and that  
15 sort of thing you mean?

16          A     Yes, and furniture.

17          Q     How about general stage work, getting things set  
18 up so they'll lift up and down off a stage, and things like  
19 that, are you --

20          A     Yes.

21          Q     -- are you trained at that?

22          A     Yes.

23          Q     What did that fall under?

24          A     Rigging.

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APPENDIX 000975

1 Q So basically at this period of time between  
2 Starlight and Wesleyan, and the summer program at Wesleyan,  
3 you have had a lot of training in technical aspects of  
4 theater, correct?

5 A Yes, sir.

6 Q Have you also had formal training in the  
7 performing side of theater?

8 A Somewhat, yes.

9 Q To what extent?

10 A I took all the required acting classes for the  
11 theater major at Wesleyan and nothing further --

12 Q What --

13 A -- beyond those.

14 Q What numbered courses were those, if you recall?

15 A Beginning acting is two semesters, or was at the  
16 time when I was a freshman. And then I also took advanced  
17 scene and character study, which was also required. That  
18 was with Dr. Vitka. And then I had begun to take classical  
19 acting at one point -- it was actually during this  
20 investigation -- and I dropped that class.

21 Q Is that the extent of the actual live drama  
22 performing classes that you had taken?

23 A Yes.

24 Q Okay. In any of your work at Starlight or the

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C05100

1 summer program at Wesleyan theater, did you ever have acting  
2 roles?

3 A Yes.

4 Q How many times?

5 A Several times, mostly just dancing and singing.

6 Q Okay, that's what was going to be my next  
7 question. Were you doing what most of us might think of as  
8 an acting role, or what might be called a song and dance  
9 role?

10 A Chorus, yes.

11 Q Okay. You ever play the lead in a role where you  
12 had all the speaking parts and that kind of stuff?

13 A In high school.

14 Q That the only time, though?

15 A Yes.

16 Q Okay. What musical performing are you qualified  
17 to do?

18 A I play saxophone, several different saxophones  
19 from soprano to baritone, and I play guitar fairly well,  
20 rhythm guitar only, and I sing.

21 Q How long have you been doing either of those  
22 instrumental or vocal performing?

23 A I have been singing since I can remember. I've  
24 been playing -- I started playing saxophone in sixth grade,

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AB018916

APPENDIX 000977

1 and I started playing guitar the sophomore year of college.

2 Q Have you ever performed with a formal group of any  
3 type?

4 A Yes.

5 Q Here, or Rockford, or where?

6 A In high school, yes.

7 Q Okay. What, what type of group did you have?

8 A I played in the Auburn High School jazz band. I  
9 played in the marching band at Auburn also. Throughout high  
10 school tried to start a few bands beyond what one would  
11 consider -- well, a few rock bands per se, but never really  
12 got off the ground with that.

13 Q Did you ever work with a group that actually  
14 performed for pay?

15 A No.

16 Q Going back to your '87 Escort, Alan, during the  
17 time that you drove that car from like June of '92, I guess,  
18 through May of '94, did you ever notice anything visibly  
19 wrong with the operation of either the odometer or the  
20 speedometer on that car?

21 A No.

22 Q Ever have occasion to notice the needle on the  
23 speedometer jumping around or anything like that?

24 A No.

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AB018917

APPENDIX 000978

1 Q Anything ever appear out of line to you in terms  
2 of accumulating mileage on the car?

3 A No.

4 Q When did you first meet Jennifer Lockmiller?

5 A I believe it's actually the winter of '92, spring  
6 semester, though.

7 Q At that time, what school was she attending?

8 A Illinois Wesleyan.

9 Q What year in school were you at that time?

10 A I was a sophomore.

11 Q She was what?

12 A I believe she was a junior.

13 Q What period of time did she continue attending  
14 Wesleyan following the time you first met?

15 A Throughout the rest of that school year.

16 Q And then what did she do with respect to schooling  
17 after that?

18 A Transferred to ISU the following summer, I guess.

19 Q Was that the very next school term she was  
20 enrolled at ISU?

21 A Yes.

22 Q After you and she had met for a period of time,  
23 was there a point in time where you began dating?

24 A Yes.

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005103

AB018918

APPENDIX 000979

1 Q When was that?  
2 A July 2nd of that summer.  
3 Q Of which year is that now?  
4 A '92.  
5 Q So then from the time of your meeting it would  
6 have been the early '92 'til winter and into spring, and  
7 then into that summer I take it?  
8 A Yes.  
9 Q Okay. Were you living on campus at the time?  
10 A Yes.  
11 Q She was living on campus at the time?  
12 A As far as I knew, yes.  
13 Q And what year were you in school at that time  
14 then? In '92 when you started in the fall, what class were  
15 you?  
16 A '92 fall my sophomore year, or are you talking  
17 about --  
18 Q I asked you a very confusing question.  
19 A I'm sorry.  
20 Q Okay, July of '92 was the summer season, correct?  
21 A Right.  
22 Q Between what year of your schooling?  
23 A That's between my sophomore and my junior, yes.  
24 Q So that would have been between what years of her

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AB018919

APPENDIX 000980

1 schooling?

2 A Junior and senior.

3 Q Okay. Again, she was like one year ahead of you?

4 A Half a year ahead of me. I believe she took a

5 semester off --

6 Q Okay --

7 A -- at one point there.

8 Q All right. What was the year that you first

9 enrolled in Wesleyan?

10 A '90/'91.

11 Q So the fall of 1990?

12 A Yes.

13 Q How long did you continue to have a dating

14 relationship with Jennifer?

15 A Approximately a year.

16 Q During any of that period of time, did your

17 relationship ever reach a point where you considered

18 yourself engaged?

19 A Yes, it did.

20 Q And at what point was that?

21 A That was late October.

22 Q Of '92?

23 A Yes.

24 Q How long a period of time did that last?

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AB018920

APPENDIX 000981

1           A    That was on and off right with the relationship  
2 throughout until the end of the relationship.

3           Q    Was there ever an exchange of rings?

4           A    Yes.

5           Q    Describe the rings.

6           A    I originally gave her a ring of braided hair, my  
7 own hair, in line with a Celtic tradition, and she gave me a  
8 ring that was three rings on a central hinge that pulled  
9 together with each of the -- each of the two outer rings  
10 having a hand grasped over the center ring which had a  
11 heart. And at one point the braided hair ring wasn't  
12 staying together too well, and so she didn't want to wear  
13 it, and so she put it somewhere in the bathroom, and I  
14 bought her a ring at Mother Murphy's.

15          Q    You bought her what?

16          A    I bought her a ring at Mother Murphy's.

17          Q    And what type of -- what's Mother Murphy's?

18          A    It's a head shop in downtown Normal.

19          Q    Did she wear that braided ring for any period of  
20 time?

21          A    For about a month.

22          Q    How long did it take before it started to  
23 disintegrate?

24          A    It was disintegrating as she wore it.

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C05106

AB018921

APPENDIX 000982

1 Q Who made that ring?  
2 A Amy Krehbiel helped me make it.  
3 Q What happened to the ring that you received from  
4 Jennifer?  
5 A I threw it in the Rock River on August 5th.  
6 Q On which?  
7 A August 5th.  
8 Q August 5th of what year?  
9 A '93.  
10 Q That was the day after you'd gotten back from  
11 Cincinnati?  
12 A Yes, sir.  
13 Q That's the river that goes directly through  
14 downtown Rockford?  
15 A Yes.  
16 MR. BEU: May we approach, your Honor?  
17 THE COURT: You may.  
18 Off the record.  
19  
20 (WHEREUPON A DISCUSSION WAS HAD AT THE  
21 BENCH OFF THE RECORD.)  
22  
23 THE COURT: Witness may step down. Ladies and  
24 gentlemen, we're going to recess this hearing now until 1:30

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AB018922

APPENDIX 000983

1 this afternoon. I'm going to ask that the bailiffs take  
2 charge of the jury. If you would leave your notebooks where  
3 they are. If you need any additional papers, before we  
4 resume the afternoon session I'm going to ask that you bring  
5 that in with you before we start that session. If the jury  
6 would please stand and exit with the bailiffs.

7  
8 (WHEREUPON THE JURY LEFT THE COURTROOM  
9 AND THE FOLLOWING WAS HAD:)

10  
11 THE COURT: All right, for the record, the jury has  
12 removed itself from the courtroom and the court is now in  
13 recess.

14  
15 (WHEREUPON THE LUNCH RECESS WAS HAD.)

16  
17 THE COURT: All right, back on the record in 94-CF-476.  
18 Counsel and the defendant return to open court. The jury is  
19 presently outside of the courtroom.

20 Mr. Beu, are you ready to proceed with your  
21 evidence?

22 MR. BEU: Yes, your Honor.

23 THE COURT: Mr. Souk?

24 MR. SOUK: Yes, judge.

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C05108

AB018923

APPENDIX 000984

1 THE COURT: All right, call the jury back in.

2  
3 (WHEREUPON THE JURY ENTERED THE COURTROOM  
4 AND THE FOLLOWING WAS HAD:)

5  
6 THE COURT: All right, for the record, the jury has now  
7 returned to the courtroom. Mr. Beu, you may proceed.

8 MR. BEU: Yes.

9 Mr. Beaman, will you take the stand?

10 THE COURT: Just resume the witness stand, and you are  
11 still under oath.

12 A Yes, sir.

13 Q (By Mr. Beu) Alan, over the approximate year,  
14 slightly more or less, that you were dating Jennifer  
15 Lockmiller, would you please identify for us those points in  
16 time in that relationship which stand out most in your mind?  
17 Just kind of highlight them for us, and then we'll go back  
18 into them some.

19 A In what context, I guess?

20 Q Well, any portions or points of time, significant  
21 points, during that relationship which stand out to you.

22 A Okay. As we first began dating, throughout the  
23 month of July, it stands out simply because we had a  
24 particularly good relationship during that time, probably

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APPENDIX 000985

1 the only time throughout the entire relationship where we  
2 were happy together. There was a time in early October  
3 where there were extreme difficulties due to a lack of  
4 communication about a miscarriage that took place that I was  
5 not informed of until well after the fact.

6 Q Talking about October of 1992?

7 A Yes.

8 Q And that was something of which you were  
9 ultimately made aware of by whom?

10 A By Jennifer.

11 Q Who had the miscarriage as you understood it?

12 A She did.

13 Q When were you ultimately made aware by her of  
14 that?

15 A When, at one point where I could not deal with the  
16 psychological implications of that miscarriage upon her  
17 behavior in the relationship, I decided to leave her and  
18 then I was informed, and it was held against me consistently  
19 from then on.

20 Q When was it then that you became aware or made  
21 aware of that miscarriage?

22 A Late/middle October, I guess.

23 Q To the best of what you were told, when had that  
24 miscarriage occurred?

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C05110

AB018925

APPENDIX 000986

1 A Right at the beginning of October.

2 Q During some period of time prior to you being made  
3 aware of this miscarriage, you've indicated there were  
4 tensions. When did that period of tensions start as near as  
5 you could relate it back?

6 A Right after I got back to school, so September.

7 Q So late September through October?

8 A Yes.

9 Q And that was what, an emotional period, would you  
10 say, in your relationship?

11 A Yes.

12 Q Any other particular noteworthy points in time in  
13 your relationship that stand out to you now?

14 A June of '93.

15 Q And what was significant about June of '93?

16 A I had come back from a trip to Rockford and  
17 immediately was notified by Jennifer that some friends of  
18 mine would be saying things about her that weren't true, or  
19 were out to get her.

20 Q And did you come to understand what it was that  
21 you were, according to her, to be hearing?

22 A Yes.

23 Q What was that?

24 A That she and Michael Swaine had had relations.

1661

C05111

AB018926

APPENDIX 000987

1 while I was gone.

2 Q Was that the first point in time that you had any  
3 knowledge of a relationship developing or having developed  
4 between Jennifer and Swaine?

5 A Yes.

6 Q During earlier stages of your relationship with  
7 her, starting with June of '92 -- July, I'm sorry, had there  
8 been a point in time when you had taken a -- a European  
9 trip?

10 A That was during January of '93.

11 Q January of '93?

12 A Yes.

13 Q Okay. In connection with that, what was the  
14 circumstances of that trip? Where did you go?

15 A I went to London.

16 Q With a group?

17 A Yes.

18 Q From where?

19 A From Wesleyan, a theater class --

20 Q Okay --

21 A -- as it were.

22 Q Was Jennifer aware of that before you went?

23 A Yes.

24 Q And aware of it while you were there?

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AB018927

APPENDIX 000988

1 A Yes.

2 Q Did anything come up between the two of you  
3 arising out of the fact that you were going on that European  
4 trip?

5 A Yes, she was extremely upset that I was going, was  
6 worried about the possibility of my meeting somebody in  
7 London, or having, as I've said, relations with somebody  
8 else.

9 Q Going back to the September/October of '92 period,  
10 where you have described this series of things concerning a  
11 miscarriage, what were the basic emotional things that had  
12 came either direction, either from you or from her, during  
13 that period of time?

14 A As far as she was concerned it was jealousy, and  
15 on my part sheer confusion as to why.

16 Q How were either you treating her or she treating  
17 you during that period of time in general arising out of  
18 that miscarriage situation?

19 A I felt that I was treating her well. I hadn't  
20 seen anything in my own actions to deserve the reactions I  
21 was getting from her.

22 Q Which were?

23 A Throwing things at me, screaming at me, accusing  
24 me of cheating on her, accusing me of not caring about her.

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C05113

AB018928

APPENDIX 000989

1 Q Did you, at that time, before you were made aware  
2 of this miscarriage, have any knowledge of any circumstances  
3 causing her to be emotional at that time?

4 A No, I did not.

5 Q When you did determine or learn from her that  
6 she'd had this miscarriage, did that tend, in your mind, to  
7 make that period of time more understandable?

8 A Yes, it did.

9 Q Was it your understanding that she was in some way  
10 reacting as you had somehow let her down and weren't more  
11 supportive of her, and you didn't know why she needed more  
12 support?

13 A That's correct.

14 Q Were there any circumstances during that  
15 September/October, '92 period where she had cause to be  
16 jealous of you?

17 A Somewhat, I suppose.

18 Q In what way?

19 A During that time, where I did not understand why I  
20 was being treated that way, I broke up with her and sought  
21 companionship from a friend.

22 Q Who was?

23 A Meredith Haynes.

24 Q And how long did any type of relationship with

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C05114

AB018929

APPENDIX 000990

1 Meredith last at that point?

2 A A day, we talked.

3 Q And did you get any specific feedback from  
4 Jennifer concerning yourself and Meredith?

5 A Yes, all the time until the end of the  
6 relationship.

7 Q From what you recall, how long was there an  
8 aftermath that was noticeable in your relationship with  
9 Jennifer arising out of circumstances of that miscarriage?

10 A Until June 11th.

11 Q So you feel that that kind of hung in all the way  
12 along?

13 A Yes, it did.

14 Q From what you can recall, which of you did that  
15 seem to affect more in the long run in terms of the  
16 relationship?

17 A What do you mean? I'm sorry --

18 Q Well, did -- in the way in which it continued to  
19 affect the relationship, did it affect, as you saw it, the  
20 way she treated you or the way you treated her?

21 A It affected mostly the way she treated me.

22 Q And which was?

23 A Consistent jealousy.

24 Q Okay. At some point, according to earlier

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C05115

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APPENDIX 000991

1 testimony, the two of you had become engaged?

2 A Yes.

3 Q Was that one of the points that was significant  
4 looking back over the relationship?

5 A Yes.

6 Q And that again was effective when?

7 A Late October.

8 Q By the time of the engagement, had she made you  
9 aware of the miscarriage situation?

10 A Yes.

11 Q So that was at least an understood situation at  
12 that time?

13 A I wouldn't necessarily call it completely  
14 understood, but understood that the act -- the occasion had  
15 happened, yes.

16 Q Okay. It's safe to say, isn't it, Alan, that you  
17 had a very strong attraction for Jennifer?

18 A Yes.

19 Q And were in love with her?

20 A Yes.

21 Q And if you had not had those feelings for her, is  
22 it likely you would have stayed in that relationship?

23 A Definitely not.

24 Q When the police officers made their crime scene

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C05116

AB018931

APPENDIX 000992

1 investigation they found a number of things apparently under  
2 Jen's bed that she had retained that had been identified  
3 apparently as communications in writing from you to her.  
4 And I don't think I have these numbered straightly --  
5 completely in order here. They're numbered, I believe,  
6 People's Exhibit 41-B-1 thru -24, I believe. May I, your  
7 Honor?

8 THE COURT: You may.

9 Q (By Mr. Beu) I'm going to hand you that sheet of  
10 letters, Alan, and ask you, first of all, you've seen those  
11 during the course of the investigation and in preparation  
12 for the trial, haven't you?

13 A Yes, I have.

14 Q Are those, in fact, each letters that you had  
15 written to Jennifer at one point or another?

16 A Yes, they are.

17 Q From looking back through the period of the  
18 relationship, is it possible for you to at least  
19 approximately place those in some sequence by date, or at  
20 least indicate approximately when they were written by you?  
21 The answer to that would be yes or no.

22 A Yes.

23 Q Okay. Let me ask you this, can you, first of all,  
24 separate from that entire packet each of those letters that,

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C05117

AB018932

APPENDIX 000993

1 to the best of your recollection, was written sometime  
2 during 1993?

3 A These two.

4 Q You've separated out People's Exhibits 4-B-17 and  
5 4-B-20?

6 A Yes.

7 Q 4-B-17 appears to be, 4-B-17, 18 and 19 actually.  
8 It's three pages. Are those successive pages of one letter?

9 A Yes.

10 Q And then 4-B-20, is that a separate communication?

11 A Yes.

12 Q As clearly as you have been able to recall, are  
13 those the only two out of that entire packet of documents  
14 that were written by you during 1993?

15 A Yes.

16 Q Is the corollary true then that the rest of those  
17 documents were all written by you at some time during 1992?

18 A Yes.

19 Q What's the earliest point in time that any of  
20 those documents in 1992 would have been written?

21 A Would have been August.

22 Q What is the latest point in time that those 1992  
23 documents were written to the best of your recollection?

24 A Most of these -- most of these have to do with

1668.

005118

AB018933

APPENDIX 000994

1 August while I was back in Rockford during the summer of  
2 '92.

3 Q During -- of those '92 documents, were all of them  
4 mailed, or were some of them hand delivered, or what?

5 A Some of them were hand delivered, yes. Most of  
6 them were mailed. I really only wrote to her when I was out  
7 of town, or when there was something that she wanted me to  
8 communicate that I could not necessarily speak to her for  
9 one reason or another.

10 Q Okay. So you say from Rockford, '92, August. Was  
11 that a period, had you been in the summer theater here?

12 A Yes.

13 Q And you were back in Rockford at that point --

14 A Yes.

15 Q -- ending the summer during August?

16 A Hm-mmm.

17 Q And then returned at the start of the semester?

18 A Right.

19 Q Okay. What period of time would you say in your  
20 relationship was the most generally romantic in the sense  
21 that we -- most of us would think of it?

22 A July.

23 Q And then you were gone basically in August?

24 A Hm-mmm, yes.

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C05119

AB018934

APPENDIX 000995

1 Q Had there been anything happening by the time you  
2 returned to Rockford in August that took the edge off the  
3 earlier relationship?

4 A Yes.

5 Q What was that?

6 A Stacey Gates, Bubba, had gotten a hold of her  
7 sometime at -- in the end of July, right before I went back,  
8 said that he was getting a job in Pontiac coaching, I  
9 believe, and would need a place to stay for a couple of  
10 weeks until he got an apartment.

11 Q Where, how, from whom had you learned these things  
12 about Stacey Gates' plans?

13 A Jennifer.

14 Q Go ahead.

15 A She told me about it.

16 Q Is that mentioned in some of the communications  
17 that you wrote to her in that period of '92?

18 A Yes, I believe so. Yes.

19 Q Is there reference in any of those '92 letters to  
20 the circumstances of the miscarriage that you've described?

21 A Yes.

22 Q Would you identify by exhibit number, Alan, the  
23 ones that you have located there that have references to  
24 that miscarriage situation?

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C05120

AB018935

APPENDIX 000996

1 A People's Exhibit 4-B-22 and 21.

2 Q Are those two separate letters?

3 A Yes.

4 Q Okay, and how many did you find that referred to  
5 the incident with Bubba that you've described?

6 A Depends on if we're going by exhibit numbers or  
7 actual letters.

8 Q Hand me what you find that does refer to Bubba,  
9 and we'll see if we can keep it straight.

10 A I'm not necessarily directing it to him, but to  
11 the time to which she was staying with him -- or he was  
12 staying with her rather.

13 Q Each of these separate pages are separately  
14 numbered as exhibits, right?

15 A Correct.

16 Q And you've handed me 4-B-1, 2, 3, 4, 5, 9, 10, 11,  
17 12, 13, 14, 15, 16 and 23. That's a lot of pages. Can you  
18 identify how many of those, how many separate communications  
19 or letters those represent, that there are some pages that  
20 aren't associated together that are a single communication?

21 A There are four separate communications being --  
22 one being two pages, one being one page long.

23 Q Let me make the record clear. The one-page long  
24 letter, 4-B-23?

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AB018936

APPENDIX 000997

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24

A Yes.

Q The two-page long letter you've pulled out is 4-B-4 and 5?

A Yes.

Q And then another multi-page letter, 4-B-9 thru 4-B-16 inclusive?

A Yes.

Q 4-B-1, 2, and 3?

A Yes.

Q Okay. And from looking back at those, those letters refer either directly or indirectly to the circumstances arising out of the plan that you mentioned, and the fact that Bubba was staying with her for a period of time?

A Yes.

Q Are there any other particularly noticeable references in these letters to points in time in the relationship that stand out to you?

A Just these, or all of them?

Q Any of them.

A Here, "I never wanted to hurt you"; referring to leaving her during the miscarriage, not having knowledge to

--

Q Which letter, which number are you referring to?

1672

C05122

AB018937

APPENDIX 000998

1 A That would be 4-B-22.  
2 Q One of the '92 letters?  
3 A Yes.  
4 Q Okay.  
5 A And then, "I love you. I'm sorry that I've been  
6 such an ass lately," also referring to the fact that I left  
7 her during the time in which she needed me.  
8 Q Which time was that?  
9 A The miscarriage.  
10 Q Okay. What was that last reference, the page or  
11 the exhibit number?  
12 A 4-B-21.  
13 Q All right. Any others that you found looking  
14 through that refer to specific points in your relationship?  
15 A Yes -- I mean, all of them do to some degree.  
16 Q Okay. All right, referring to the two that were  
17 written by you in '93 --  
18 A Hm-mmh.  
19 Q -- which is the earlier of those two?  
20 A People's Exhibit 4-B-17 would be the earlier of  
21 these two.  
22 Q How many pages? There's multiple pages there.  
23 A Yes, it's three pages. Only on the front.  
24 Q Only one number? I think they're all separately

1673

C05123

AB018938

APPENDIX 000999

1 numbered, aren't they?

2 A Yeah, 4-B-17, 18 and 19, sorry.

3 Q Can you tell by looking at that and by thinking  
4 back at what point during '93 that letter was written?

5 A This was written sometime after spring break.  
6 There's a reference to going to Starved Rock. Essentially  
7 the purpose of this letter was in an attempt to communicate  
8 that I didn't feel that we needed to hound on past  
9 difficulties at that stage, and that maybe we should find  
10 some sort of compromise if we were going to continue  
11 together.

12 Q Spring break was when in '93?

13 A Late March, that's as specific as I could be about  
14 that.

15 Q Okay. And the other letter in '93, the '93  
16 letter?

17 A The other letter could have been as late as the  
18 beginning of that summer of '93. My recollection is that  
19 this was mailed.

20 Q Now the exhibit number that you're holding and  
21 referring to right now is what?

22 A 4-B-20. It says, "P.S.," at the bottom, "Enclosed  
23 is a picture of me and a humorous article." I wouldn't have  
24 used an envelope if I was giving it to her by hand.

1674

C05124

AB018939

APPENDIX 001000

1 Q So that last one you recall, or you're just  
2 inferring from those circumstances, that you mailed it to  
3 her?

4 A I suppose I'm inferring, yes.

5 Q Okay. Can you tell for sure about the one from  
6 March, the earlier one in '93?

7 A I can't be certain. I drew a little picture as a  
8 pair of lips, "I don't wear lipstick, sorry," the way she  
9 blotted her lipstick on her letters to me. But I do recall  
10 giving this to her the day after talking to her on the  
11 telephone about our relationship, and her asking me to  
12 communicate my feelings with more clarity, and so I chose to  
13 wrote them down -- write them down. So this was probably  
14 hand delivered, but --

15 Q That's the one from March of '93?

16 A Yes.

17 Q Okay. Were you aware over the period of time that  
18 Jennifer was keeping these letters of yours?

19 A No, I was not.

20 Q When were you first aware that she had retained  
21 your letters?

22 A When I believe Tim Freesmeyer told me that he had  
23 my letters.

24 Q Okay. Over the period of your relationship was

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APPENDIX 001001

1 this the extent of letters you'd written to her, or was  
2 there more written communication from you to her?

3 A There may have been one or two more, but this is  
4 about it, I would say.

5 Q Had she, from time to time, also during that  
6 period of time written letters to you?

7 A Yes.

8 Q Had you retained her letters?

9 A No.

10 Q Had you retained them for any period of time to  
11 speak of?

12 A Yes, I did. I also threw them away at the  
13 beginning of August.

14 Q At the beginning of where?

15 A August of '93.

16 Q During the course of your period of time dating  
17 her, did the two of you have occasion to go to some friends'  
18 wedding in May of '93?

19 A Yes, we did.

20 Q Who got married at that time?

21 A Michael and Trisha Mackey.

22 Q Where was that wedding?

23 A That was in Morton, Illinois.

24 Q Roughly how far from here?

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APPENDIX 001002

- 1 A I don't know, approximately half an hour.
- 2 Q Were either of you -- did either of you have a  
3 formal role in the wedding?
- 4 A I was standing up for the groom.
- 5 Q Did you and Jen attend that wedding together?
- 6 A Yes.
- 7 Q At that time, at the time of the wedding, let's  
8 say leading up to it, what had been the recent state of your  
9 relationship?
- 10 A The night before we had had an argument about  
11 whether or not I was going to dance with the respective  
12 bridemaid that I was supposed to dance with. Other than  
13 that, we had been in fairly decent shape at that time.
- 14 Q Did you wind up being photographed in some  
15 snapshots during the course of that wedding?
- 16 A Yes.
- 17 MR. BEU: Could we have the lights now, your Honor?
- 18 Q (By Mr. Beu) Alan, I'm going to show you what is  
19 marked for identification as Defendant's Exhibits 24, 25,  
20 and 26, first of all, which are photographs, and ask you if,  
21 first of all, if you can identify when those photos were  
22 taken?
- 23 A These were all taken at the wedding.
- 24 Q The Mackey wedding?

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APPENDIX 001003

- 1 A The first one --
- 2 Q I'll get to each one of them one at a time.
- 3 However, they were all taken at that wedding?
- 4 A Yes.
- 5 Q And in each case do they accurately show the --
- 6 the persons and surroundings at the time the pictures were
- 7 taken?
- 8 A Yes.
- 9 Q Referring you now, individually show you
- 10 Defendant's Exhibit No. 24, which is also -- well, let's
- 11 see, Defendant's Exhibit 24, which is a slide that I'm
- 12 showing here, 24-X, and ask you who is portrayed in that
- 13 photograph?
- 14 A That is myself, Jennifer, and Everett Fitzgerald,
- 15 Michael's grandfather.
- 16 Q Michael whose grandfather?
- 17 A Michael Mackey.
- 18 Q Okay. And then I show you what's identified as
- 19 Defendant's Exhibit 25, and a slide 25-X, and ask you what
- 20 event is being portrayed specifically in that wedding?
- 21 A This is --
- 22 Q In that picture.
- 23 A This is the tossing of the bouquet.
- 24 Q Could you step down for a moment please? Would

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APPENDIX 001004



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APPENDIX 001005

1 you go to the screen with that pointer for us, Alan, and  
2 would you, first of all, indicate, are you -- are you in  
3 that picture?

4 A Yes, I am.

5 Q Can you point yourself out?

6 A (Witness so pointed.)

7 Q So you're there with no jacket at that point,  
8 correct?

9 A Right.

10 Q Okay. Is Jennifer in that picture?

11 A Yes, she is.

12 Q Could you point her out please?

13 A (Witness so pointed.)

14 Q In the red dress?

15 A Yes.

16 Q Okay. Is she wearing the shoes she wore  
17 throughout that entire wedding?

18 A Yes, she is.

19 Q Is that the same shoes that she wore when you were  
20 standing next to her in the picture with the grandfather?

21 A Yes.

22 Q Okay, you may go back and have a seat.

23 Show you Defendant's Exhibit 26, also correlated  
24 with Defendant's Exhibit 26-X, being a slide, and ask you is

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APPENDIX 001006

1 that yourself and Jennifer?

2 A Yes.

3 Q As far as you recall, was she wearing shoes in  
4 that picture?

5 A I believe so.

6 Q As far as you can recall, were you wearing shoes  
7 in that picture?

8 A Yes.

9 Q Does that accurately show, in that picture, the  
10 respective heights of the two of you with respect to each  
11 other?

12 A Yes.

13 Q Looking at the length of your hair in this  
14 picture, is that the length of your hair approximately as it  
15 was say in August of '93?

16 A It was shorter in August.

17 Q By roughly how much?

18 A Closer up to my shoulders. Jennifer and Swaine  
19 had cut it for me that summer.

20 Q Okay. Still down at least, if not past, shoulder  
21 length, was it?

22 A Yes.

23 Q Okay. How about Jennifer, was her hair style  
24 approximately the same in July generally as it was at this

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APPENDIX 001007

1 picture in May?

2 A Yes.

3 Q Okay. Then I'll show you -- excuse me, one  
4 minute, your Honor.

5 THE COURT: Do you need lights?

6 MR. BEU: Well, I didn't think so. There it is. I  
7 need to move a page of yellow paper off of my exhibits.

8 Q (By Mr. Beu) Alan, I'll show you Defendant's  
9 Exhibit 23 which correlates with slide 23-X on the screen.  
10 Who is in that picture?

11 A That's myself and my grandmother.

12 Q And do you recall when that picture was taken?

13 A That picture was taken in August of '93 when my  
14 grandparents came to visit shortly after I was stopped by  
15 the police.

16 Q How long were your grandparents visiting with you  
17 at that time?

18 A They got there that Saturday, and I'm not certain  
19 exactly how long they stayed, but it was -- they were still  
20 there, I believe, when I left for school.

21 Q So that was a period of how long? When did you  
22 go back to school?

23 A A week and a half to two weeks.

24 Q I take it sometime during that period in other

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APPENDIX 001008

1 words?

2 A Yes.

3 Q Is your hair, to the extent that you can see it in  
4 this picture, approximately the same as it had been  
5 throughout the month of August?

6 A Yes.

7 Q How about facial hair, had you had facial hair to  
8 speak of during the month of August to the best you recall?

9 A Facial hair for me kind of comes and go with  
10 whether or not I'm too lazy to shave. I've never ever had  
11 any actually specifically groomed facial hair, but it might  
12 have been stubbly during certain occasions.

13 Q Does this picture accurately show you and your  
14 grandmother at the time this picture was taken?

15 A Yes.

16 MR. BEU: We can have that turned off again now, and  
17 the lights back on, I would say.

18 Q (By Mr. Beu) Alan, over the period of time of  
19 your relationship with -- with Jennifer, did your  
20 relationship involve sexual relations?

21 A Yes, it did.

22 Q Including intercourse?

23 A Yes.

24 Q Over the period of your relationship where --

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APPENDIX 001009

1 where did intercourse between the two of you occur?

2 A Several places; in her bedroom, in her living  
3 room, in my room at Wallis, on the quad of Wesleyan campus,  
4 Funks Grove, behind her building outside, I couldn't begin  
5 to recall everything.

6 Q Now, did occasions of intercourse occur at your  
7 apartment during the summer of '93?

8 A Yes.

9 Q Now in -- in Jen's apartment was there a part of  
10 the apartment where you would normally have sexual relations  
11 if you were there for that purpose?

12 A Normally in the bedroom.

13 Q Okay. And what prompted using the living room,  
14 for example?

15 MR. SOUK: Judge, may we approach?

16 THE COURT: You may.

17  
18 (WHEREUPON A DISCUSSION WAS HAD AT THE  
19 BENCH AS FOLLOWS:)

20  
21 MR. SOUK: If he wants to say where he was and what he  
22 was touching and that sort of thing, I don't think we need  
23 to get into what between them prompted this sexual act and  
24 that sexual act, if that is where --

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APPENDIX 001010

1 MR. BEU: I'm going into some --

2 THE COURT: I'm not sure I understand what that  
3 question was either. Maybe you could reask your question,  
4 instead of what prompted that --

5 MR. BEU: Got you.

6  
7 (WHEREUPON THE FOLLOWING PROCEEDINGS WERE  
8 HAD IN THE PRESENCE OF THE JURY:)

9  
10 THE COURT: Did you want to reask your question?

11 MR. BEU: I'll ask a somewhat more direct question,  
12 your Honor.

13 THE COURT: All right.

14 Q (By Mr. Beu) Alan, you're familiar with  
15 Jennifer's clock radio?

16 A Yes.

17 Q In what room of the -- her apartment was that  
18 normally kept?

19 A It moved back and forth between the bedroom and  
20 living room.

21 Q And for what purposes, under what circumstances?

22 A Many times we would take both of the mattresses  
23 off of the bottom bunk and put them in the living room and  
24 move the alarm clock out there as well and sleep there for

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APPENDIX 001011

1 the night.

2 Q Why?

3 A To have a double bed.

4 Q On occasion when that happened, did you have  
5 occasion to move the alarm clock, or did she move it?

6 A Yes, I had the occasion to move the alarm clock.

7 Q Had you used her alarm clock or clock radio on  
8 occasions besides those, when you moved it back and forth  
9 from one room to another?

10 A Many times to get up for class.

11 Q Are you familiar with the typical bed coverings  
12 that Jennifer owned that she had on either the lower bunk or  
13 the single twin bed in her bedroom?

14 A Yes.

15 Q When, when you and she had sexual intercourse in  
16 her bedroom, did you consistently use one particular one of  
17 those beds, or did it vary?

18 A It varied.

19 Q Is it accurate that at one time or another you and  
20 she had sexual intercourse on each of those beds?

21 A Yes.

22 Q At least the bottom of the bunk beds --

23 A Yes.

24 Q -- and the one twin? As nearly as you can

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APPENDIX 001012

1 presently remember, when is the last time that you and  
2 Jennifer had intercourse?

3 A It would have been sometime in the earlier part of  
4 July.

5 Q '93?

6 A Yes.

7 Q That last occurred where?

8 A In my apartment.

9 Q When is the last time, to your best recollection,  
10 that you and she had intercourse in her apartment?

11 A The end of June.

12 Q Of '93?

13 A Yes.

14 Q Alan, do you recall an incident in December of '92  
15 when the police were called and you had swallowed some  
16 fingernail polish remover?

17 A Yes.

18 Q Tell us, first of all, where were you at the time  
19 that the police came?

20 A I was in between the bathroom and the bedroom.

21 Q Which apartment?

22 A Her apartment.

23 Q Okay. What had precipitated the drinking of that  
24 fingernail polish remover?

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APPENDIX 001013

1 A I was trying to get her to pipe down.

2 Q What was going on?

3 A She was yelling at me and screaming at me about  
4 Meredith. She was angry at me.

5 Q How long earlier had it been that you had had that  
6 brief contact with Meredith during that turmoil over the  
7 miscarriage?

8 A Several months.

9 Q Was this the only time after you became aware of  
10 her miscarriage that -- that she became this emotional still  
11 towards you about that?

12 A Certainly not.

13 Q What, what was there about this incident that  
14 prompted you to do something drastic as drinking fingernail  
15 polish remover?

16 A I was just tired of it. I was being hounded in  
17 front of my face for apparently no reason at that time.  
18 Meredith had started going out with my friend, Don Jones,  
19 and so I wasn't allowed to hang out with my friend, Don  
20 Jones, anymore. And so when I did, I would get yelled at  
21 about that. And so finally I just --

22 Q In your mind, at that time, what was drinking  
23 fingernail polish remover accomplishing?

24 A To get her off of me, and instead discover whether

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APPENDIX 001014

1 or not -- whether she would actually be concerned.

2 Q Did you have any idea or any past experience to  
3 indicate what effect that might have on you?

4 A I felt that it might kill me, but I also knew that  
5 if I didn't drink that much of it that I would probably just  
6 throw it back up.

7 Q What did happen to you physically as a result of  
8 drinking this?

9 A I vomited.

10 Q Once, more often than once?

11 A Several times violently.

12 Q Within what span of time?

13 A A few minutes.

14 Q What physical condition were you in generally when  
15 the police officer arrived?

16 A Dazed.

17 Q Do you recall the police being called to Jen's  
18 apartment in -- on June 29th of '93 concerning a report of a  
19 pill overdose?

20 A Yes.

21 Q Tell us what happened on that occasion.

22 A She called me at my apartment, presumably from her  
23 apartment, and stated that she had had enough of our  
24 relationship as well, and that if we couldn't work things

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APPENDIX 001015

1 out she was just going to end it all. Stated that she had  
2 taken some pills, and that she would be going to sleep  
3 forever.

4 Q About what time of day was that call?

5 A That was late at night, early in the morning.

6 Q What did you do?

7 A I called 9-1-1.

8 Q After that, what did you do?

9 A I went to her apartment, where they told me to  
10 meet them, and waited for them to arrive. I think they  
11 might have already been there when I got there.

12 Q At any rate you and the rescue people showed up  
13 close to each other?

14 A Yes.

15 Q Did you go inside?

16 A I'm not certain if I went inside until after they  
17 had talked to her.

18 Q Did you have a conversation with the police or  
19 rescue people there at that time?

20 A I -- yes, I did.

21 Q And did you describe to them why you were there  
22 and why you had called?

23 A Right.

24 Q Do you recall any details about what was going on

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APPENDIX 001016

1 in your relationship at about that time prior to that?

2 A That was after the time at which Michael Swaine  
3 had told me that he and Jennifer had had -- well, what he  
4 told me was that they had made out on the couch in our  
5 apartment, and she -- and I had been confronting her with  
6 that, and she had been denying it, and so I believe that was  
7 right about the time of our break-up. But the break-up  
8 didn't happen until after that completely, I guess.

9 Q Okay. Was the relationship in the process of a  
10 final break-up at that point?

11 A Slowly dying, yes.

12 Q When, from your standpoint, do you consider that  
13 you had mutually terminated this relationship?

14 A When I left for Cincinnati.

15 Q And that was that Sunday that's been described,  
16 the 25th of July, something like that?

17 A Yes.

18 Q Can you identify from your recollection at this  
19 time the final significant event which led to that final  
20 break-up?

21 A I had reason to believe that Swaine was not  
22 telling me everything. I certainly had reason to believe  
23 that Jennifer was not, because she wouldn't even tell me  
24 what Swaine would tell me. And so I decided, well, I'd

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APPENDIX 001017

1 better just find out for myself. And I found some letters  
2 that she had written to Swaine in our apartment in his  
3 bedroom, and confronted them both with that and made it  
4 clear that I was in complete understanding of what had been  
5 going on, and that I didn't want to deal with either of them  
6 any more.

7 Q That's when you left for Cincinnati?

8 A Yes.

9 Q I want to go back with you for a moment, Alan, to  
10 the spring of 1993 and ask you whether there was an occasion  
11 during that spring period when you broke through the door of  
12 her apartment building?

13 A Yes.

14 Q Tell us as closely as you can recall when that  
15 was.

16 A Spring about does it, I believe after spring  
17 break.

18 Q Your best recollection?

19 A Yeah.

20 Q What, what occurred on that occasion? From your  
21 standpoint, what did you do?

22 A I had talked to Jen that evening earlier and she  
23 had stated that she was going out with some friends to the  
24 bars, and so I went over to a friend of mine's house, John

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APPENDIX 001018

1 Murray's, a mutual friend of mine, later on that evening and  
2 found her there with him. Didn't really bother me at that  
3 point that much. It was an inconsistency, but one that I  
4 was willing to overlook. And I was just hanging out with  
5 them, and it seemed like they really didn't want me around.  
6 And then Jennifer got on my case for hassling them when they  
7 wanted to be alone. So I left. She called me later that  
8 night and said that she didn't want to be seeing me anymore.  
9 It was best if we just break up. So I went over to her  
10 place to pick up my CD player. When I got there, I saw John  
11 Murray's car, black Trans Am, in her parking lot.

12 Q What time was that?

13 A That was approximately one in the morning, two in  
14 the morning maybe.

15 Q Okay --

16 A And so I looked around and none of the lights were  
17 on in her apartment. I went up to the door and started  
18 banging on the door. I said, "Better get your clothes on,  
19 I'm just here to pick up my stuff." And they came -- or  
20 they came to the door and were like, "Well, we're not" -- or  
21 she did rather, "You shouldn't, you know, you can't come in,  
22 sorry." And so I kept banging on the door, and finally I  
23 broke it in.

24 Q As near as you can recall, Alan, how long a period

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APPENDIX 001019

1 of time were you banging on the door before you broke  
2 through?

3 A I couldn't even say.

4 Q Did they ever open the door?

5 A No.

6 Q What were you doing verbally at the time that you  
7 were pounding on the door?

8 A I was yelling, "Let me in."

9 Q Do you have any recollection at this time as to  
10 how long a period of time you were yelling at the door?

11 A The whole thing could have taken maybe 15 minutes.

12 Q Including breaking in, or before you busted the  
13 door?

14 A Well, it took me awhile to bust the door down.  
15 I had to kick it several times.

16 Q When the door let go, after you were kicking on  
17 it, what portion of the door received any damage?

18 A The latch.

19 Q Was there any noticeable damage at all to the  
20 hinge side of the door?

21 A No.

22 Q Once you opened the door in that fashion, what  
23 person did you find inside?

24 A I found Jennifer and John Murray inside.

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APPENDIX 001020

1 Q What did you do?

2 A I looked, satisfied my craving for that knowledge  
3 to be able to see it with my own eyes, and I walked promptly  
4 over to my CD player, picked it up, and said, "Okay, I'm out  
5 of here."

6 Q What was your tone of voice once you were inside?

7 A I was yelling.

8 Q Did you physically touch either of them?

9 A No, I did not.

10 Q Do you, of your own knowledge, know what repair  
11 work was done to that door following that incident?

12 A The next day she called me saying that maybe we  
13 shouldn't have let it go that far, maybe we should have  
14 talked it out, and wanted to work out the relationship.  
15 I apologized to her. She apologized to me. I told her that  
16 I would fix the door, and I did within the next few days.

17 Q About how much later?

18 A It could have been pretty soon after that because  
19 I remember her sort of giving me a guilt trip, you know,  
20 saying, "I hope something terrible happens to me since my  
21 door is busted. I can't lock myself in. Wouldn't you feel  
22 so terrible if that happens?"

23 Q Would that indicate that it at least stayed  
24 unrepaired for a couple of days?

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APPENDIX 001021

1 A Maybe for a whole day.

2 Q And what repair did it take?

3 A I just had to shove the door jamb back in and  
4 refit some of the screws in the latch and bend the deadbolt  
5 back.

6 Q Did it require any parts?

7 A No.

8 Q Now I'd like to go again to the summer of '93 and  
9 ask you how you first became aware of what you described as  
10 the kissing on the couch incident?

11 A I, like I said before, first became aware of it  
12 when it was said, stated to me by Jennifer, that my friends  
13 would be saying terrible things about her. Seemed like she  
14 was covering up for something that I was bound to here that  
15 might have been true.

16 Q Did you begin hearing things like that?

17 A Yes.

18 Q From whom?

19 A Well, I -- the next thing that caught my attention  
20 to that was Symmonie Steger coming downstairs the following  
21 day into our apartment, looking at me, looking at Swaine  
22 with an extremely angry expression, and saying, "Swaine, get  
23 up here, we've got to talk." And so they went upstairs, and  
24 I followed them up shortly after and listened at the door.

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APPENDIX 001022

1 They were telling him that he had to tell me about  
2 something. That I was just going to believe her if he  
3 didn't tell me himself.

4 Q Did Mike Swaine ever tell you anything then about  
5 what here you've described as the kissing on the couch  
6 incident?

7 A Yes, he --

8 Q What did he tell you?

9 A He came out of the room. I believe I may have  
10 gone back downstairs by that point. I said, "I hear you've  
11 got something to talk to me about." And then he began to  
12 relay that he had been making out with Jennifer on Friday  
13 night, but -- and then when I questioned him further about  
14 whether or not anything else had happened, he denied it.

15 Q Do you recall approximately when that was?

16 A That was right around June 11th.

17 Q Did you and Jennifer continue to have an ongoing  
18 relationship following that?

19 A Yes, we did.

20 Q Was your last actual sexual contact with her in  
21 your apartment before then or after that?

22 A That was after that.

23 Q What -- what's the next thing that happened that  
24 is significant in the sequence of events leading to the

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APPENDIX 001023

1 final break-up?

2 A There was one night where Michael Swaine was  
3 talking on the phone to somebody, and -- and was making  
4 plans to go to a party with that person. And then he got  
5 off the phone and asked me, "Can I borrow your car? I want  
6 to go to this party on Cherry Street." And the whole time  
7 it seemed rather false to me, and so I followed him on my  
8 bicycle -- or rather a bicycle. I don't know whose it was,  
9 somebody that lived there. And sure enough, he went  
10 straight to her house.

11 Q What -- when was this approximately?

12 A Towards the end of June, beginning of July,  
13 somewhere around there I think.

14 Q Where was his car when you got over to Jen's place  
15 on your bike?

16 A My car, that he borrowed, was parked in the lot of  
17 the next building. I think it's been referred to as 410 N.  
18 Main, just behind the breezeway.

19 Q So was your car parked then south of that 410  
20 building?

21 A Correct.

22 Q Okay. What did you do after you got there and  
23 found the car there?

24 A I went straight up to her apartment, noticed that

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1 there were no lights on, and walked straight to the door and  
2 started banging on it.

3 Q What -- tell us what you can, as nearly as you  
4 can, recall of that incident from that point until you left.

5 A As far as I can recall, I banged on the door  
6 several times. I went outside. I looked to see if the  
7 bedroom lights were on. I came back. I banged on the door  
8 again. I kicked it in. I walked in looking for Swaine,  
9 wondered if he had gone out a window. Looked around. I  
10 looked in her closet. I looked in, you know, her bedroom,  
11 and in the living room, and the kitchen for Michael and did  
12 not find him.

13 Q In order to check to see if he'd gone out another  
14 door or window, where did you have to go when you went  
15 outside?

16 A I had to go down the back steps and -- or rather  
17 out on the back steps just to see if he had gone out the  
18 bedroom window, and then went out the front steps to see if  
19 he had made way that way.

20 Q During any of that sequence of events, do you  
21 recall running all the way around the building?

22 A I don't recall running all the way around it, no.

23 Q Do you recall running portions of the way around  
24 the building?

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APPENDIX 001025

1 A Certainly.

2 Q Okay. What is your best recollection, as far as  
3 the length of time that this occurred, from the time you  
4 first arrived there until the time that you looked through  
5 the apartment and then left that area?

6 A Approximate time?

7 Q Yeah. How much time?

8 A Oh, 45 minutes, half an hour.

9 Q Pardon me?

10 A Half an hour or 45 minutes.

11 Q While you were outside trying to get in, were you  
12 also making noises as opposed to just pounding?

13 A Yes.

14 Q What were you -- what were you doing?

15 A I was just yelling that I knew he was here. I  
16 knew you were here. Why'd you borrow my car to come see my  
17 ex-girlfriend? I just want my keys back. You're not to  
18 drive my car anymore.

19 Q Did you hear the testimony earlier from Mr.  
20 Singley and Miss Jenkins who had the unit across the hall?

21 A Yes.

22 Q Is your recollection of your conduct on that night  
23 essentially consistent with what they described they saw and  
24 heard?

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APPENDIX 001026

1 A Yeah, I guess.

2 Q Did you touch Jennifer Lockmiller at anytime on  
3 that evening after you gained entrance to the apartment?

4 A No, I did not.

5 Q And you did not locate Michael Swaine, correct?

6 A No, I did not.

7 Q You didn't see him there?

8 A No, I did not.

9 Q Okay. Did you confront her verbally while you  
10 were in there?

11 A I believe so, yes.

12 Q Do you recall in what way? What you said to her?

13 A No, probably something.

14 Q After you left the apartment, then where did you  
15 go?

16 A I went home, back to my apartment at 1406 N. East  
17 Street.

18 Q How'd you get back?

19 A I rode the bicycle back.

20 Q Okay. And after you got back, what did you do?

21 A I rode up to the porch and saw Chris Perry sitting  
22 out on the porch. Stated to him that -- relayed to him what  
23 had happened and asked him if he would go back as a mutual  
24 party and retrieve my keys.

1700

C05151

AB018966

APPENDIX 001027

1 Q What did you do?

2 A We got in his car, went to her place. I stayed in  
3 the car. He got out and went inside. Shortly after that,  
4 he came back out with my keys. We drove around the block.  
5 He dropped me off at my car, because you have to drive  
6 around the block to get back where the parking lot is for  
7 the 410 apartment building. And I got in my car, proceeded  
8 to drive back around again to get on University and go back  
9 to University which turns into East Street.

10 Q As you were driving from that location, what  
11 happened?

12 A I saw Michael Swaine coming out of the building.

13 Q What did you do at that point?

14 A I stopped and offered him a ride.

15 Q Did he accept?

16 A Yes.

17 Q And where did the two of you go?

18 A We went back to our apartment.

19 Q Was there any physical contact between the two of  
20 you at that time?

21 A No, there was not.

22 Q To your recollection, was there ever any physical  
23 contact between you and Swaine in any sort of anger?

24 A No.

1701

C05152

AB018967

APPENDIX 001028

1 Q What is the -- the next thing in the sequence of  
2 events that you recall leading up to the final break-up?

3 A The next thing would really be finding the letters  
4 and confronting them.

5 Q Okay. Do you recall an incident where you had  
6 gone through her bathroom garbage?

7 A That was during that confrontation, yes.

8 Q Was that when you went there with those letters  
9 that you had found in your apartment?

10 A Yes.

11 Q Okay. What day of the week was this?

12 A This was a Sunday.

13 Q What time of day did that whole sequence of events  
14 start on that Sunday?

15 A About 9:30.

16 Q When you got up, what -- well, at 9:30 at any  
17 rate, what persons were present at your apartment?

18 A Jamie Thorman and myself.

19 Q What, what did you do while you were there at your  
20 apartment that day?

21 A I woke up shortly after -- or shortly before  
22 Swaine left for work. I waited until I was certain that he  
23 was gone. The night before I had found some condoms  
24 underneath the sink that were opened, an open box, and had

1702

C05153

AB018968

APPENDIX 001029

1 no reason to believe that they were anybody's but Michael's.  
2 Considering I knew my other roommate rather well, and I,  
3 myself, had no use of them, so it led me to believe that  
4 those were Swaine's, and they were used. And I also  
5 recognized that there was some mode of an interest between  
6 Jennifer and Swaine, so that led me to seek for further  
7 evidence.

8 Q What did you ultimately find?

9 A I ultimately found letters from Jennifer to Mike.

10 Q Where did you find them?

11 A In Mike's room.

12 Q And after finding them, what did you do?

13 A I came out of the bedroom. I went to the theater  
14 to confront Mike with them, and all he could say to me is,  
15 "Get to work, dude." And so I went off on him. And then I  
16 left, and he followed me out. I think I said something to  
17 the effect of, "I quit because Swaine's fucking my woman."  
18 And then I walked out. He followed me out shaking his  
19 middle finger, and not knowing really what to say to me I  
20 suppose, and I got in my car and left.

21 Q When you say you went off on him, what did you do?

22 A Verbally, I yelled at him.

23 Q In what part of the theater complex did this take  
24 place?

1703

C05154

AB018969

APPENDIX 001030

- 1 A This was on the stage.
- 2 Q About how long, to your recollection, were you and  
3 he together on the stage that morning?
- 4 A Five/ten minutes.
- 5 Q How would you generally describe your demeanor and  
6 your voice during that?
- 7 A Angry, shaken.
- 8 Q And how about Swaine?
- 9 A Likewise.
- 10 Q Where did you go from there?
- 11 A I went to Jennifer's.
- 12 Q And what happened at her place?
- 13 A I walked up to the door. I knocked on the door.  
14 She wouldn't answer. I knocked a little harder, and then I  
15 started pounding. And then at one point I started crying,  
16 and just wanting to show her this, wanting to have closure,  
17 wanting to end it by showing her this and having her not  
18 deny it finally, because I could present evidence so that  
19 she could not deny it, and then I would be able to leave.
- 20 Q How'd you get in?
- 21 A I was finally allowed in.
- 22 Q Okay. Who was there when you got in?
- 23 A Heidi Steinman and Jennifer.
- 24 Q So what happened once you got inside?

1704

C05155

AB018970

APPENDIX 001031

1           A     I walked in the door, immediately reading the  
2 letter out loud, the one -- I don't have the exhibit number,  
3 but the one that was typed in the exhibit that you've seen.  
4 Reading that letter out loud as I walked in the door, and  
5 she motioned to the bedroom and said we should talk alone.

6           Q     Did the two of you go into the bedroom alone?

7           A     Yes.

8           Q     For about how long?

9           A     It couldn't have been that long. I just kept  
10 reading the letter, and she kept telling me to shut up, and  
11 then Heidi got into it.

12          Q     Was that a calm or a loud confrontation?

13          A     It was loud.

14          Q     About how long were you in her apartment that day?

15          A     Again, 15/20 minutes.

16          Q     During the course of the period of time that you  
17 were there, what else did you do besides confront her with  
18 the contents of this letter?

19          A     I dumped out her bathroom garbage can.

20          Q     In what fashion? How did you do that?

21          A     I just dumped it.

22          Q     Where?

23          A     Picked it up and turned it upside down on the  
24 bathroom floor.

1705

C05156

AB018971

APPENDIX 001032

1 Q Why?

2 A To see if there were any used condoms in it, or  
3 used syringes of Conceptrol, a gel that she commonly used.

4 Q Did you find anything?

5 A No. I thought that I did.

6 Q Safe to say that you were pretty worked up at that  
7 point?

8 A Yes.

9 Q What did you think you found?

10 A I thought that I found something that resembled a  
11 gel syringe.

12 Q And what was it that you found?

13 A To my embarrassment it was an applicator for a  
14 tampon.

15 Q Did either of the two women there at the time  
16 point that error out to you?

17 A Yes, they did.

18 Q Which one?

19 A Jennifer.

20 Q In what tone of voice?

21 A Very -- kind of like a kindergarten teacher  
22 talking about a child that they had been mistaken, and by  
23 the same token trying to be nice about it, but still upset.

24 Q To your knowledge, Alan, who became aware either

1706

C05157

AB018972

APPENDIX 001033

1 then or later that you had gone through her garbage?  
2 A I couldn't tell you besides those two people  
3 there.  
4 Q From her place, where did you go that day?  
5 A I went back to my apartment.  
6 Q When you got back there, on that occasion, who was  
7 there?  
8 A Jamie Thorman.  
9 Q Just the two of you?  
10 A Yes.  
11 Q At that time, July 25th of '93, what persons  
12 physically occupied your apartment?  
13 A Bill Ingerham had left at the end of the first  
14 show, so the only people left were Swaine, Brandon Komola,  
15 and myself.  
16 Q There were how many bedrooms in that apartment?  
17 A Two.  
18 Q Two persons then to a bedroom?  
19 A Yes.  
20 Q Did you and Swaine have separate bedrooms?  
21 A Yes.  
22 Q Who had been his roommate?  
23 A Bill Ingerham.  
24 Q So on this day you and the other fellow who shared

1707

C05158

AB018973

APPENDIX 001034

1 the room were still living there?

2 A Yes.

3 Q And Swaine?

4 A Yes.

5 Q Okay. What did you do then after you -- after you  
6 got back to your apartment?

7 A I believe I went up to -- or I spoke to Jamie  
8 first, and said something to him about wanting to go with  
9 him to Cincinnati. There's no reason for me to stay here  
10 and have all this flaunted in my face for another week.

11 Q And what did you do as far as your things?

12 A Packed them up and threw them in my car. Took a  
13 few things with me to Cincinnati that I'd be needing there,  
14 and left the rest just locked up in my car.

15 Q Did you and Jamie then, at that point, go in his  
16 car to his residence in the Cincinnati area?

17 A Well, before leaving I spoke to Amy Krehbiel and  
18 had collected those letters and written a letter for Dr.  
19 Brown to explain myself. Having known no first-hand  
20 knowledge of it himself, I felt the need to express why it  
21 was that I was leaving. I felt that it was conceivable that  
22 he would understand. But by the same token, if -- if he did  
23 not understand, that was not going to change whether or not  
24 I was going to leave.

1708

C05159

AB018974

APPENDIX 001035

1 Q You were working for a flat summer pay, were you  
2 not, for the summer theater?

3 A Yes.

4 Q And had about a week left to go?

5 A Hm-mmm, I did offer to return that portion of my  
6 pay.

7 Q Is there anything else that you did then before  
8 you and Jamie took off?

9 A I spoke to Amy Krehbiel and gave her the letter,  
10 and asked her to make sure that Dr. Brown got it. She said  
11 that she would call Kelly Ullom, the secretary, and check it  
12 out with her. She did do that in my presence, and then took  
13 -- hung up the phone and told me that it would be okay, just  
14 go, and so I left.

15 Q Okay. How long did you stay with Jamie then out  
16 in Cincinnati?

17 A Approximately a week and a half.

18 Q While you were out there, Alan, how did you  
19 basically spend your time?

20 A Just relaxing, hanging out, met a lot of his  
21 friends. There's a place in Cincinnati called Clifton.  
22 There's a lot of live bands that play in that area. So I  
23 heard a lot of bands and went to some parties, went  
24 swimming, recorded some songs that Jamie and I had

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APPENDIX 001036

1 previously written, wrote more songs.

2 Q While you were out there, did you have some phone  
3 contacts with Jennifer?

4 A Yes, I did.

5 Q Who initiated those calls?

6 A I did.

7 Q What, what your purpose, at that time, in touching  
8 base with her by phone?

9 A To apologize for being such a whiner.

10 Q Were any of those calls emotional or upsetting to  
11 you, or as far as you could tell, to her?

12 A Somewhat, but not to the degree that things had  
13 been in proximity.

14 Q More calm and collected than earlier?

15 A Yes.

16 Q Do you recall approximately how many phone  
17 conversations you had with her while you were out in  
18 Cincinnati?

19 A Oh, gosh, two or three, something like that.

20 Q Do you recall whether or not on any of those  
21 occasions you also spoke with Swaine?

22 A Yes, I did.

23 Q Do you recall how many times?

24 A On one occasion I called and she answered the

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C05161

AB018976

APPENDIX 001037

1 phone and he was there, and --

2 Q Keep your voice up please.

3 A Sorry. I called and she answered the phone and he  
4 was there, and she said that he wanted to talk to me as  
5 well.

6 Q When did you return then to this area?

7 A On August 4th.

8 Q Jamie came out, did he?

9 A Yes.

10 Q Who all -- who all came from Cincinnati at that  
11 time?

12 A Initially I was planning on coming back and Jamie  
13 was going to bring me back at the end of that week, but then  
14 I found out from his mother that she was going to be heading  
15 up to Rockford on August 4th anyways. So I called my  
16 parents and told them that I would be a few more days, and  
17 then just rode back with him and his mother.

18 Q Okay. Where did you go when you got here to  
19 Bloomington?

20 A I went into my apartment, said good-bye to Jamie,  
21 put some of my stuff in his car, because initially he was  
22 going to ride to Rockford with me, but him knowing that I  
23 was planning on stopping by Jennifer's to say good-bye, he  
24 decided that it was best for him not to be there for that.

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APPENDIX 001038

1 And so -- and then I went to my apartment and they left.

2 Q Okay. Describe for us the appearance of the  
3 interior of your apartment that day on the 4th of August.

4 A Everything was sort of set up in some semblance of  
5 a moving-type organization. It didn't look lived in. It  
6 didn't look like he was staying there.

7 Q Did -- do you know, at this point, whether or not  
8 your roommate, the one that shared your bedroom, was still  
9 living there or not?

10 A I'm pretty sure I knew that he wasn't.

11 Q That he what?

12 A That he wasn't.

13 Q Okay. So he was gone by then?

14 A Yes.

15 Q Would that have left Swaine as the only remaining  
16 resident of that building once you got your stuff in your  
17 car?

18 A Yes.

19 Q That apartment anyway, the lower apartment?

20 A Yes.

21 Q Did you see Mike Swaine that day, August 4th, when  
22 you got back to town?

23 A Yes.

24 Q Where did you see him?

1712

C05163

AB018978

APPENDIX 001039

1           A     As I was walking out of my apartment he drove up  
2 in Jennifer's car.

3           Q     Did you and he talk some at that point?

4           A     Yes.

5           Q     Was that an emotional conversation or a fairly  
6 calm conversation?

7           A     I had had a chance to think things out at that  
8 point and realized that if she and I were not good for each  
9 other, that it was best that Swaine had taken that up,  
10 and --

11          Q     So basically, what was that conversation?

12          A     Take good care of her.

13          Q     You say you saw Jen that day?

14          A     Yes, I did.

15          Q     Where did you see her?

16          A     At her apartment.

17          Q     Did you actually get inside her apartment at that  
18 time?

19          A     Yes.

20          Q     What, what part of the apartment did you get into?

21          A     Her living room.

22          Q     How long did you and she talk that day?

23          A     For -- I don't know, 15 minutes, half an hour at  
24 the most. She was late for a class.

1713

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APPENDIX 001040

- 1 Q How did she get to that class, if you know?
- 2 A I took her.
- 3 Q While you were inside her apartment, did you see
- 4 any of Michael Swaine's belongings?
- 5 A Yes, I did.
- 6 Q What did you see?
- 7 A A sign that said Swaine Street.
- 8 Q Where had that sign been when you had last seen
- 9 it?
- 10 A In my apartment.
- 11 Q Who did it belong to?
- 12 A Mike Swaine.
- 13 Q How long to your --
- 14 A Actually the City of Bloomington.
- 15 Q Pardon me?
- 16 A Actually the City of Bloomington is what it
- 17 belonged to.
- 18 Q On August 4th, other than seeing Jennifer and
- 19 Michael, did you see any of your other friends in
- 20 Bloomington that day?
- 21 A I don't believe so, no.
- 22 Q Once you had picked up your car, talked to
- 23 Jennifer, did you then return to Rockford?
- 24 A Yes.

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APPENDIX 001041

1 Q What did you then do basically between then and  
2 the end of the summer?

3 A I worked for my uncle.

4 Q Had you done that previously?

5 A Yes.

6 Q Okay --

7 THE COURT: Could I interrupt for just a moment?  
8 Counsel step up for just a moment.

9  
10 (WHEREUPON A DISCUSSION WAS HAD OFF THE  
11 RECORD.)

12  
13 THE COURT: All right, ladies and gentlemen, we're  
14 going to take about a ten-minute recess at this time. If  
15 the bailiffs would take charge of the jury and return them  
16 to the deliberation room. You may leave your notebooks on  
17 your chairs again. The court will be in recess.

18  
19 (WHEREUPON A RECESS WAS HAD.)

20  
21 THE COURT: Okay. Back on the record in case number  
22 94-CF-476. Counsel and the defendant return to open court.  
23 The jury is presently outside the courtroom. Let's ask Mr.  
24 Beaman to resume the witness stand before the jury comes in.

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APPENDIX 001042

1 All right, call the jury back in.

2  
3 (WHEREUPON THE JURY ENTERED THE COURTROOM  
4 AND THE FOLLOWING WAS HAD:)

5  
6 THE COURT: All right, for the record, reflect that the  
7 jury has returned to open court. Mr. Beu, you may continue  
8 your examination.

9 MR. BEU: Thank you, judge.

10 Q (By Mr. Beu) Alan, when you began to work that  
11 summer for your uncle, what type of work were you doing for  
12 him?

13 A Maintenance, painting.

14 Q At which location?

15 A All four stores.

16 Q Okay. During the period of time after you left  
17 Bloomington on August 4th and up until you found that she  
18 had been killed, did you have any contacts or attempted  
19 contacts on your part where you tried to reach her, or did  
20 reach her?

21 A I believe I called her just to see if she had made  
22 it back from California. Fine, you know, did not reach her,  
23 and made no other attempts to contact her until she called  
24 me on Monday, the 23rd.

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APPENDIX 001043

1 Q Okay. Now you've been made aware through the  
2 course of the investigation and trial preparation that her  
3 phone records show that she tried to reach you approximately  
4 29 times on Sunday, Sunday, August 22nd. Do you recall  
5 becoming aware of that through the discovery?

6 A Yes.

7 Q Were you aware of any of those attempts on her  
8 part to reach you?

9 A Prior to that?

10 Q Before you saw it in the phone records.

11 A No, I was not.

12 Q Had she mentioned anything to you in the  
13 conversation you had on the 23rd about all those efforts to  
14 try to reach you?

15 A No.

16 Q Tell us what you did, Alan, best you can recall it  
17 on that 22nd of August, which was a Sunday.

18 A The 22nd of August I went to church that morning  
19 with my parents, talked to Mitch Olson about setting up  
20 arrangements to practice for the following Sunday in which I  
21 was going to play the guitar at the church. Then went home.  
22 As far as I know it was just a lazy day at home.

23 Q Did you have to work that evening?

24 A Yes.

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APPENDIX 001044

1 Q And what time did you go to work that evening or  
2 early Monday morning?

3 A Approximately one o'clock in the morning.

4 Q Okay. Where did you go to work that particular  
5 Monday morning?

6 A That entire week I was at the Sandy Hollow store.

7 Q During that period of working at the Sandy Hollow  
8 store, how did you typically get there and back each day?

9 A I drove there.

10 Q During this week you were driving the Escort,  
11 right?

12 A Yes.

13 Q When did you get off work then following that  
14 Sunday -- well, early Monday morning shift?

15 A Sometime around ten o'clock.

16 Q And after getting off work that Monday, where did  
17 you go?

18 A I went home.

19 Q When you got home, what did you do?

20 A I went to bed.

21 Q You had your own room there in the house?

22 A Yes.

23 Q Were you making any special arrangements to be  
24 able to sleep days --

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APPENDIX 001045

1 A Yes, I was.

2 Q -- at home? What arrangements did you make?

3 A The curtains in the room were not thick enough to  
4 keep the sunlight out, and if there's any light I have  
5 difficulty getting to sleep. So I normally put a blanket up  
6 over those curtains to keep the light out.

7 Q And were you doing that during the course of this  
8 particular week?

9 A Yes, I was.

10 Q That fairly routine?

11 A Yes.

12 Q On Monday, the best of your recollection, when did  
13 you get up?

14 A I imagine sometime around four or five.

15 Q Do you recall on Monday whether either of your  
16 parents were home at the time that you got back from work in  
17 the morning?

18 A I got back from work in the morning. I believe my  
19 mother was there, yes.

20 Q After you awakened at the end of the afternoon on  
21 Monday, what did you do?

22 A Took a shower, ate dinner with my parents, edited  
23 video tape with my father, and then, at that point, Jennifer  
24 called.

1719

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APPENDIX 001046

1 Q And tell us, best of your recollection, first of  
2 all, how long did that call last?

3 A It seems like it was only ten or 15 minutes long  
4 at the most.

5 Q Where, where were you speaking with her on the  
6 phone? What phone in the house?

7 A In the kitchen.

8 Q And is that a phone that sits on the cabinet, or  
9 phone that hangs on the wall?

10 A It hangs on the wall.

11 Q How close is that phone to the area of the walkway  
12 through into the hallway and towards the living room?

13 A It's four feet from it.

14 Q Tell us basically about that conversation on the  
15 phone.

16 A She called, my mother answered the phone and told  
17 me it was for me, and I took the call. And she wanted to  
18 talk about us, our relationship, wanted to try to make  
19 amends, and was asking me if what she had done with Swaine  
20 was any worse than my leaving her during her miscarriage.  
21 And, I don't know, the hypocrisy of that statement just  
22 angered me, and I really didn't want to talk about it  
23 anyway, and she was asking if maybe we could get back  
24 together during the school year. Swaine didn't want to see

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APPENDIX 001047

1 her anymore. And I told her, "No, we're through. I don't  
2 want to see you again." And then I hung up the phone.

3 Q In what fashion did you hang the phone?

4 A I slammed it down.

5 Q After that, that evening, what did you do?

6 A I went outside and smoked a cigarette.

7 Q And then?

8 A Then I came back in and calmed down and went back  
9 into the office where my father and I were editing video  
10 tape, continued to do so.

11 Q What did you do for the balance of the evening  
12 then?

13 A Roughly around ten o'clock or 11 o'clock I  
14 generally left for work -- or not for work, but to go out  
15 with friends prior to going to work, because I didn't feel  
16 that, you know, it would be much fun to sit in my house  
17 while my parents went to bed and do nothing. So generally I  
18 went out. And Monday night I went and picked up Shannon  
19 from work. She had told me about a party that some friends  
20 of hers were having, and so I went with her.

21 Q Do you recall after picking her up -- first of  
22 all, was that at her home?

23 A No, that was at work.

24 Q I mean the -- you got her from her place of

1 employment Monday night?  
2 A Stash O'Neil's.  
3 Q And where was that?  
4 A Stash O'Neil's.  
5 Q And where was this party?  
6 A It was at the residence of a David Olson on 15th  
7 Street. His parents were out of town.  
8 Q Did you know David Olson before that party?  
9 A No, I did not.  
10 Q Best of your knowledge, Shannon did know him?  
11 A Yes.  
12 Q How many nights that week were you at the Olson  
13 house?  
14 A Every night that week until Friday night.  
15 Q Okay. During the period of time on those various  
16 nights that you were there, what persons did you know by  
17 name that you could tell us that were also at that party  
18 between the whole week?  
19 A I know Shannon Wallenberg, Sonny Spinello, his  
20 real name is Guy Spinello, and Chris Carbone went there with  
21 me on Wednesday night. Everybody else there I did not  
22 previously know. I believe Ed Logason was there Tuesday  
23 night, another friend of mine.  
24 Q Okay. During the course of the week coming and

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APPENDIX 001049

1 going, what numbers of people would you estimate were there?

2 A Twenty.

3 Q And at any one time that you were there, what's  
4 your estimate of the numbers that were there?

5 A Roughly the same.

6 Q Monday night, when did you leave for work then to  
7 go to work?

8 A Little before one.

9 Q Did anyone leave with you, or did you just leave  
10 on your own at that time?

11 A I left on my own.

12 Q And where did you go?

13 A I went to work at the Sandy Hollow store.

14 Q Okay. How long did you work?

15 A Eight hours.

16 Q You got off about when?

17 A About nine.

18 Q Okay. So this is now about nine o'clock on  
19 Tuesday morning?

20 A Hm-mmm.

21 Q Where did you go?

22 A Home.

23 Q And at home you did what?

24 A Went to bed.

1723

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APPENDIX 001050

1 Q Do you recall whether or not on Tuesday when you  
2 got home either of your parents were home?

3 A I believe my mother was also at home on Tuesday  
4 when I got home.

5 Q When did you wake up Tuesday in the afternoon  
6 then?

7 A Not until like five o'clock, four or five.

8 Q What did you do Tuesday evening?

9 A Tuesday evening my parents and I, or my mother and  
10 I had planned Tuesday morning when I got home to go get my  
11 tires changed. She had -- she was under the feeling that  
12 they were bald and I needed new tires. Personally I didn't  
13 necessarily care, but -- and -- but I was really too tired  
14 when I got home from work. I had been at a party the night  
15 before and then I had worked all night, and then didn't  
16 necessarily feel like doing anything else until I had a  
17 chance to sleep.

18 Q So after you woke up, what did you do then, you  
19 and your folks?

20 A So then we went to Sears. And my mom had asked me  
21 to bring a hundred dollars cash with me from my advance so  
22 that she could do some shopping with me for school, and we  
23 could also eat. And she wrote me a check for that hundred  
24 dollars so that I could deposit that into my bank account.

1724

C05175

AB018990

APPENDIX 001051

1 Q While the car was being worked on then at Sears,  
2 what happened? What did you do?

3 A We went into the mall and shopped at some clothing  
4 stores and ate dinner in the food court.

5 Q What time was it then when you picked up the car?

6 A The place had just closed, so roughly nine.

7 Q Did you participate directly at all in the process  
8 of paying for the tires?

9 A No, I did not.

10 Q Were you physically present at the time when your  
11 mother took care of those transactions?

12 A Yes, I was.

13 Q Okay. She's identified the sales receipt from  
14 Sears. Did you see that transaction yourself?

15 A Yes.

16 Q Okay. Who drove your car from Sears?

17 A I drove my car from Sears.

18 Q Where did you go?

19 A Home.

20 Q What, what route did you take headed from there?

21 A I took the Route 20 bypass to Meridian, and took  
22 that to Alvina. That's the street I live on.

23 Q Once you got back to home from Sears, how long  
24 were you home Tuesday night?

1725

C05176

AB018991

APPENDIX 001052

1           A     Well, I recall trying to install the stereo that I  
2 had bought, having difficulty with finding exactly where to  
3 put what wire. I was out there with an ohmmeter for about  
4 an hour I think, and then after a couple of hours I gave up  
5 on that and then went to David Olson's house.

6           Q     Did, did you go with anybody on that -- on that  
7 Tuesday night?

8           A     Yes, I picked up Shannon.

9           Q     Where did you pick up Shannon on that evening?

10          A     From her home.

11          Q     And then from Shannon's where?

12          A     To Dave Olson's.

13          Q     How long were you at Olson's then on Tuesday  
14 evening?

15          A     Tuesday evening I was only there for a couple of  
16 hours.

17          Q     Where did you go from there?

18          A     Then I went to work.

19          Q     What about Shannon?

20          A     Shannon's boyfriend was there, Guy, so she was on  
21 her own to get home. She would ride with him. A lot of  
22 them were staying there, and so I don't really question  
23 deadheads as to where they're going to stay, because they're  
24 used to doing that. So --

1726

C05177

AB018992

APPENDIX 001053

1 Q What time did you get off work then on Wednesday  
2 morning?

3 A Approximately nine some time.

4 Q At that time, where did you go?

5 A I went home.

6 Q What route did you take going home from that Sandy  
7 Hollow IGA store?

8 A I took 20 to Meridian to Alvina.

9 Q What did you do after you got home?

10 A I picked up my cash advance and the check that my  
11 mother had written me and took that back to the bank.

12 Q Where did you bank at that time?

13 A Bell Federal Savings & Loan.

14 Q Where do you bank at this point?

15 A Same place.

16 Q And where have you ever banked?

17 A There.

18 Q Tell us about this advance. This was from your  
19 uncle?

20 A Yes.

21 Q When had you gotten it, as best you recall?

22 A Sometime over that weekend. I don't know if it  
23 was directly given to me or dropped off for me, or how that  
24 exactly transpired, but I had had very little money in my

1727

C05178

AB018993

APPENDIX 001054

1 bank account and I needed some money to live off of during  
2 the time that I would be in town. So he advanced me some of  
3 that money so that, you know, I wouldn't be getting a check  
4 until I went back to school, because the money was for  
5 school. But by the same token, I needed enough to be able  
6 to live off of and be able to buy materials to do his  
7 driveway.

8 Q What was the amount of that advance?

9 A \$495.

10 Q How much did you take to deposit at Bell Federal  
11 that day?

12 A \$400.

13 Q That included the cash and the check?

14 A Right.

15 Q What route did you take getting to Bell Federal?

16 A Route 20 -- I took Meridian to Route 20 and  
17 Alpine.

18 Q When you got to Bell Federal, did you make the  
19 transaction?

20 A Yes.

21 Q I show you what's been marked for identification  
22 as Defendant's Exhibit No. 8. May I, your Honor?

23 THE COURT: You may.

24 Q (By Mr. Beu) Which appears to be a series of

1728

C05179

AB018994

APPENDIX 001055

1 photographs from a video tape that the prosecution and  
2 defense have stipulated to being taken that morning at Bell  
3 Federal. From looking through that, those photographs, can  
4 you confirm that the individual shown making the transaction  
5 in the various frames where the person appears, that it is  
6 in fact you?

7 A Yes.

8 Q And the clothes that you're wearing there at that  
9 time, do you recall when or where you had acquired either  
10 the shirt or the slacks?

11 A Where I had acquired, no.

12 Q That's a black and white picture, right?

13 A Yes.

14 Q And do you recall, at that point, anything about  
15 the coloration of either the top that you're wearing, the  
16 shirt or the slacks?

17 A I can't really see the pants I'm wearing here.  
18 Looks like jeans. Jeans is what I would have normally worn  
19 to work. And that shirt is a blue and white striped shirt  
20 with little lace inlay, not really lace, but colorwise  
21 little white and black knotwork in it.

22 Q Okay. Do you recall, at this time, whether you  
23 had changed clothes between the end of the work that day and  
24 the time you went to the bank?

1729

C05180

AB018995

APPENDIX 001056

1           A     No, I had not. Wouldn't make sense to change  
2 clothes to go back to go to bed.

3           Q     After you made your bank deposit, Alan, where did  
4 you go?

5           A     I went home.

6           Q     When you got home, then you went to bed?

7           A     Yes.

8           Q     How long did you sleep then during the day on  
9 Wednesday?

10          A     'Til approximately five o'clock.

11          Q     Then what happened about five?

12          A     I was awakened by my parents.

13          Q     Tell us what happened after you got up?

14          A     I got up. I got in the shower. I knew that we  
15 were going to an ice cream social that night, and that I was  
16 supposed to rehearse with Mitch afterwards. My mom reminded  
17 me of that, and said that he had called. And I ate dinner,  
18 and they were already on their way out and I was still  
19 getting ready and getting my guitar ready, and then I  
20 followed 20 minutes after maybe.

21          Q     Okay. On that day, did you have any phone contact  
22 yourself with Mitch Olson?

23          A     I had no recollection of any phone contact with  
24 Mitch Olson.

1730

C05181

AB018996

APPENDIX 001057

1 Q You've noticed, have you not, through the  
2 discovery of phone records and such, that there were phone  
3 calls placed from your residence phone at like 10:37 and  
4 10:39 A.M. on that Wednesday morning?

5 A Yes.

6 Q Do you have any recollection as to whether or not  
7 you made calls?

8 A It's entirely possible that I could have made  
9 those calls.

10 Q Do you recall one way or the other?

11 A Not one way or the other, no.

12 Q Okay. When you arrived home that Monday morning,  
13 was anyone home but you?

14 A On Monday morning?

15 Q I'm sorry, Wednesday?

16 A Wednesday morning, no.

17 Q Okay. When you arrived home that Wednesday  
18 morning, what did you find as far as the house and the  
19 condition of things?

20 A The condition of things were as normal. I let the  
21 dogs out of their pen, and let them go outside. And then  
22 let them back in, and I just leave them, let them run around  
23 while I'm there. So --

24 Q After -- I take it then you ate supper Wednesday

1731

C05182

AB018997

APPENDIX 001058

1 night?

2 A Yes.

3 Q With the folks at home?

4 A Hm-mmm.

5 Q From there, after supper, where did you go?

6 A I went to the ice cream social at church.

7 Q Didn't go with your folks, or separately?

8 A Separately.

9 Q Which of you got there first, your best

10 recollection?

11 A They did as far as I know.

12 Q Do you recall what time it was roughly when you  
13 got to the ice cream social?

14 A A little after seven maybe.

15 Q Now going back for a minute on the drive from Bell  
16 Federal and your home each direction, do you know  
17 approximately what time it takes to drive between your home  
18 and Bell Federal?

19 A Approximately a half hour.

20 Q Okay. If you were to make that drive through the  
21 heart of downtown Rockford on more of a crow's line  
22 direction --

23 A Hm-mmm.

24 Q -- as the crow flies, do you have any basis or

1732

C05183

AB018998

APPENDIX 001059

1 knowledge for how long that drive would take?

2 A That would take longer.

3 Q Have you had occasion to drive directly through  
4 town for the sole purpose of going from your home to the  
5 bank?

6 A No, I would only drive that route if I were  
7 stopping somewhere else as well.

8 Q When you got to the ice cream social, what did you  
9 do?

10 A I had enough time to eat a piece of pie and get a  
11 little bit of ice cream, and then Mitch and I rehearsed.

12 Q Okay. Do you recall when it was that you left  
13 there?

14 A Around eight o'clock.

15 Q Where did you go?

16 A I went to Chris Carbone's.

17 Q And from there where did you go?

18 A We went to Dave Olson's house.

19 Q Do you recall how or when you had made the  
20 arrangements with Chris that you would be going there?

21 A I don't recall. I may have called him earlier  
22 that day, I'm not certain.

23 Q Carbone is the young man who testified here  
24 earlier, right?

1733

C05184

AB018999

APPENDIX 001060

- 1 A Yes.
- 2 Q And he's been a friend of yours sometime up there,  
3 correct?
- 4 A Yes.
- 5 Q Also a roommate down here?
- 6 A Right.
- 7 Q To the best of your knowledge, did he know any of  
8 the other persons at the party at Olsons?
- 9 A He as well knew Shannon and Guy Spinello, and that  
10 night there was also another friend that I have since been  
11 introduced to that he knew at the time named Jason Jedeo.
- 12 Q How long were the two of you at Olson's that  
13 evening on Wednesday?
- 14 A 'Til about one o'clock, maybe a little -- maybe  
15 more like 12:30.
- 16 Q Where did you go from there?
- 17 A We went to the Country Kitchen.
- 18 Q And basically that's a coffee shop type of place?
- 19 A It's a Denny's/Perkins type place, yes.
- 20 Q How long were you there?
- 21 A 'Til a little before two, approximately two.
- 22 Q Then from there where did you go?
- 23 A I took him home and I went to work.
- 24 Q Same location all week long again, right?

1734

005185

AB019000

APPENDIX 001061

1 A Yes.

2 Q At the end of that shift, now we're on to Thursday  
3 morning, where did you go after work?

4 A I stopped by the Broadway store to pick up the  
5 leftover blacktop sealer, and crack filler, and the  
6 squeegee, and all that stuff that I needed to do my uncle's  
7 driveway.

8 Q Had you been using that stuff previously over  
9 there?

10 A We had used it the week before to do the entire  
11 parking lot for the Broadway store.

12 Q Okay. And once you had stopped by and picked that  
13 stuff up, where did you go?

14 A I went to my uncle's house.

15 Q When had you and he made arrangements for you to  
16 do that, clean up and put sealing on his drive?

17 A I'm not exactly certain when we had first talked  
18 about it. It was prior to his leaving for his vacation. It  
19 may have even been talked about right when I got back just  
20 in matter of, you know, sometime this month can you do my  
21 driveway. But I don't remember exactly.

22 Q Okay. Does your uncle have a place that he owns  
23 someplace out of state?

24 A Yes.

1735

C05186

AB019001

APPENDIX 001062

1 Q Do you know where that is?  
2 A That's on Fawn Lake in Wisconsin.  
3 Q To the best of your knowledge is that where he and  
4 his wife had gone at that time?  
5 A Yes.  
6 Q To the best of your knowledge, is that a place  
7 where they frequently go and spend time to take a break?  
8 A Yeah.  
9 Q After you got home from the Broadway store, then  
10 what did you do -- well, you said you went to your uncle's?  
11 A Yeah, I worked on the driveway just pulling weeds  
12 and filling up the cracks so that I could seal it.  
13 Q How long were you there at your uncle's that day?  
14 A Thursday I was there until late morning, early  
15 afternoon, sometime around noon/one.  
16 Q And from there where did you go?  
17 A And then I went home.  
18 Q To do what?  
19 A To go to bed.  
20 Q And then how long did you sleep that day?  
21 A I slept later until like six or seven that day.  
22 Q And this was then Thursday late afternoon. What  
23 did you do after you woke up that day?  
24 A Took a shower again, ate with my parents, talked,

1736

C05187

AB019002

APPENDIX 001063

1 with them for awhile. Later on that night, I went back to  
2 Dave Olson's place.

3 Q Okay. Any other stops that evening that you can  
4 recall at this point?

5 A Not that I can recall.

6 Q From Olson's place -- when did you leave there,  
7 first of all?

8 A Approximately the same time as usual, a little  
9 before one.

10 Q From there, where did you go?

11 A To work.

12 Q And then Friday morning, when did you get off?

13 A Friday morning I got off around nine or ten again.

14 Q Drove home?

15 A Drove back to my uncle's house.

16 Q Drove directly to your uncle's on this occasion?

17 A Yes.

18 Q And then tell us what you did after you got to  
19 your uncle's.

20 A I worked on the driveway for the better part of  
21 that morning, and then I went home to change, I believe, or  
22 was that later? I don't know. But eventually I ended up  
23 meeting up with Beth Terresi at Denny's. I believe I picked  
24 her up and we went out for lunch.

1737

C05188

AB019003

APPENDIX 001064

1 Q All right. And what did you do after, after  
2 having lunch?

3 A Then I went home and went to bed.

4 Q How did Beth get home?

5 A I took her home.

6 Q Okay. How long did you sleep then Friday?

7 A I slept until late evening, sometime around eight,  
8 and then I believe I met up with Beth around ten again at  
9 Denny's. A friend of hers had brought her there. We were  
10 just supposed to meet there.

11 Q From home that evening, where did you go?

12 A To Denny's.

13 Q And from Denny's, where did you go?

14 A She and I and her friend got in her friend's Bug,  
15 because I use to have a Bug and I saw them show up in -- I  
16 think it was a '76 Bug. I'm not sure. And I was a little  
17 bit fascinated with the car. I hadn't gotten to play with  
18 one in a long time, so we went to the Cafe Esperato just to  
19 hang out, and I got to ride in the back seat, sticking my  
20 head out the sunroof on the way there.

21 Q What is the Cafe Esperato?

22 A It's kind of a coffee shop. They don't really  
23 serve food, but you can get desserts and liqueurs, and  
24 strange coffees.

1738

C05189

AB019004

APPENDIX 001065

1 Q That's right in downtown Rockford?  
2 A Yes.  
3 Q And from there where did you go?  
4 A We went to Denny's because her friend had to go  
5 home.  
6 Q And from there, where did you go?  
7 A We went to Sinissippi Gardens just to talk and  
8 walk.  
9 Q And from there, where did you go?  
10 A I took Beth home, and then I went home.  
11 Q What time roughly was it when you made it home?  
12 A Four in the morning maybe.  
13 Q Pardon?  
14 A Four in the morning.  
15 Q This is like four A.M.?  
16 A Yes.  
17 Q How long in the day did you sleep on Saturday?  
18 A I slept until at least two or three.  
19 Q And then --  
20 A Something like that. And then I went to church to  
21 rehearse with Mitch.  
22 Q About what time, if you recall?  
23 A Shortly after I got up. I got up specifically for  
24 the purpose of going to church.

1739

C05190

AB019005

APPENDIX 001066

1 Q And then following that rehearsal, where did you  
2 go?

3 A Following that rehearsal I went back home to eat  
4 dinner and just sort of hang out with my grandparents. They  
5 had just gotten there from Florida. And friends of mine  
6 called me that day, or maybe previously, I'm not sure, but  
7 they were going back to school and they wanted to hang out  
8 with me that night. So I told them I'd meet up with them at  
9 Denny's a little after ten.

10 Q Did you head off that direction?

11 A Yes, I did.

12 Q And how far did you get?

13 A I got about halfway down Kilburn Avenue.

14 Q What happened?

15 A I was pulled over by two police cars. They had  
16 been following me for quite some time, and I was wondering  
17 why I was being pulled over, because I wasn't even speeding.

18 Q When you say for quite some time, what do you  
19 mean?

20 A All the way from my house really.

21 Q Okay. What department were those officers from,  
22 if you know?

23 A I believe they were the Rockford Police  
24 Department. Seeing there was a canine unit involved, that

1740

C05191

AB019006

APPENDIX 001067

1 might have been the sheriff's police, I'm not certain.

2 Q Were you made aware, at that time, as to the  
3 reason you were stopped?

4 A I asked them why I was stopped. They asked me  
5 to get out of the car and spread them, and so I did. And  
6 then while they were putting me into the car, they stated  
7 that some detectives from Normal wanted to talk to me about  
8 a homicide.

9 Q Did any detailed conversation occur out there on  
10 Kilburn Avenue?

11 A No.

12 Q How did you get to the Public Safety Building?

13 A When Detectives Daniels and Hospelhorn arrived,  
14 they were with another Rockford detective, Cowan I believe  
15 is his last name, and they took me in his car back to the  
16 Public Safety Building.

17 Q All right. Now what was done and said about your  
18 car?

19 A They told me that either they would tow it back  
20 there, or they would leave it here.

21 Q What condition were you in as you were being  
22 transported?

23 A Confused.

24 Q How about physically?

1741

C05192

AB019007

APPENDIX 001068

1 A I was handcuffed.

2 Q When you got to the Public Safety Building, how  
3 long did they leave the cuffs on you?

4 A They took the cuffs off of me when we got into the  
5 interrogation room.

6 Q What would be your description of the  
7 interrogation room?

8 A A small room with an ashtray right in the middle  
9 of it, sort of staring at me, barely enough room to breathe.

10 Q Do you smoke?

11 A Yes.

12 Q Did you ask if you could smoke?

13 A Yes, I did. The police had confiscated my  
14 tobacco. I roll my own, or had been at that time, and they  
15 confiscated my tobacco and would not give it back to me.

16 Q To the best of your recollection, how long were  
17 you in that room with the Normal officers?

18 A Seemed like several days.

19 Q Best estimate actually?

20 A About two to three hours.

21 Q You heard the tape recording of that -- of that  
22 interview session?

23 A Yes, I have.

24 Q Okay. Basically can you describe at that point,

1742

C05193

AB019008

APPENDIX 001069

1 during that session, your frame of mind?

2 A Confused, simply trying to listen to see what they  
3 were going to say to find out what was going on.

4 Q Okay. When you left that session, do you -- did  
5 you feel that you had clearly been told what the condition  
6 of Jennifer Lockmiller was?

7 A No.

8 Q How did you get home?

9 A I drove my car home.

10 Q Okay. Had you had some contact with your parents  
11 before doing that?

12 A I called them after walking out on Daniels and  
13 told them that I wasn't sure where my car was, and that if  
14 they would -- wouldn't mind coming to get me, that I would  
15 be greatly appreciative. Told them that I had been accused  
16 of something, but I did not know what it was.

17 Q Did you see them then downtown before you left?

18 A Yes.

19 Q And where did you go then from -- from the Public  
20 Safety Building?

21 A Well, when my father arrived, it -- when I walked  
22 out, after calling him, I did -- I still did not have my  
23 tobacco. I still did not know where my car was. So I went  
24 looking for a place to buy some cigarettes, and the only

1743

C05194

AB019009

APPENDIX 001070

1 place I could think of was the Cafe Esperato, because  
2 there's no gas stations in the downtown area there. So I  
3 was walking towards that when Detective Cowan drove up and  
4 said, "Hey man, do you want your car?" And I'm like, "Oh,  
5 it's here?" And he said, "Yeah." So I rode back to the  
6 station with him. And then we went downstairs where they  
7 keep their cars, and my car was there with yellow tape  
8 around it, and Daniels was standing there by it, and he made  
9 further accusations, and I said, "Look, I was in Rockford."  
10 and I got in my car and left. And I went outside with my  
11 car and waited for my parents to arrive so that they  
12 wouldn't be totally thrown off as to my not being there any  
13 more or anything like that. Then my father rode home with  
14 me to make sure I was okay.

15 Q Okay. And then once you got home, did you make an  
16 effort to try to find out more about what may have happened  
17 to Jennifer?

18 A Yes, I called Don Jones down here.

19 Q Okay --

20 A Asked him if he had heard anything about it.

21 Q All right. During the course of that Sunday,  
22 how'd you basically spend the day?

23 A I went to church and performed as scheduled with  
24 Mitch. Then returned home and stayed home under a veritable

1 house arrest.

2 Q Who, who had suggested that and put you in that  
3 status?

4 A Well, aside from the fact that I hadn't slept the  
5 night before so I wouldn't have gone anywheres anyways, my  
6 parents had spoken to a friend of the family, who happens to  
7 be a lawyer, and he had advised that I don't even leave the  
8 property because there would be a chance for them trying to  
9 come and pick me up, and handcuff me, and drag me down there  
10 again for whatever purpose.

11 Q Did you meet then in my office on the next day  
12 following that?

13 A Yes.

14 Q And did you receive some general advice concerning  
15 processes that might be used to try to go back and retrace  
16 activities on the part of yourself and your parents during  
17 that week's time?

18 A Yes.

19 Q When did you return to school?

20 A I returned to school the following Sunday.

21 Q Okay. In the course of getting that initial legal  
22 advice, Alan, did you get any advice concerning future  
23 contacts with police investigators?

24 A Yes.

1745

C05196

AB019011

APPENDIX 001072

1 Q What was that advice?

2 A You stated that I should not even talk to them and  
3 advise them to talk with you.

4 Q What advice did you receive about going someplace  
5 with them?

6 A If there was a warrant.

7 Q To go with them?

8 A Yes.

9 Q Did you follow that advice?

10 A No.

11 Q What, what was the next contact you received from  
12 police after that late Saturday morning stop -- that  
13 Saturday evening stop?

14 A Detective Freesmeyer and Lt. John Brown of the  
15 state's attorney's investigator's office walked up to me on  
16 the quad at the theater one day. I had been working on a  
17 show. It was the middle of tech week. I was about to go  
18 into a production meeting, and Detective Freesmeyer served  
19 me a warrant stating that I should give over samples of my  
20 blood, and hair, and all that kind of stuff. And I asked  
21 him if I could attend my production meeting and then go with  
22 him, and he said no, and so I went with him.

23 Q From that time, going on further during that fall,  
24 did you have further contacts from one or more officers?

1746

C05197

AB019012

APPENDIX 001073

1 A Yes, I did.

2 Q Did you, on those various occasions, speak with  
3 them about some of the details of that week?

4 A Yes, I was asked if I would offer assistance to  
5 their investigation and I willingly complied.

6 Q I want to show you what previously has been  
7 marked, if I may, your Honor?

8 THE COURT: You may.

9 Q -- People's Exhibit 44, which is not -- do you  
10 know where it is?

11 MS. DIMMICK: Should be up there.

12 MR. BEU: It was before lunch.

13 MS. DIMMICK: I have a copy.

14 THE COURT: Let me go off the record.

15

16 (WHEREUPON A BRIEF DISCUSSION WAS HAD  
17 OFF THE RECORD.)

18

19 MR. BEU: So the record is clear now, your Honor, we  
20 have found what I was looking for. Actually it's an  
21 unmarked piece of paper, but it is an envelope marked  
22 People's Exhibit 44.

23

THE COURT: All right.

24

Q (By Mr. Beu) Mr. Beaman, I want to show you what

1 has been designated as People's Exhibit 44, and ask you if  
2 you recognize that as a document in your handwriting that  
3 was prepared by you on a date that appears on there of  
4 October 10th -- pardon me, October 12th.

5 A Yes, it is.

6 Q Okay. Is that in your handwriting?

7 A Yes, it is.

8 Q And where did you -- where'd you fill that out?

9 A In Tim Freesmeyer's office.

10 Q Okay. You accompanied him voluntarily at his  
11 request on that occasion?

12 A Yes.

13 Q Did you, in the course of talking with him that  
14 day, go through with him your entire week's activities as  
15 you have ultimately traced them back and described here?

16 A To the best of my recollection, yes.

17 Q What, at that point in time, what things in that  
18 week stood out the most strongly for you?

19 A The ice cream social, the rehearsal, the fact that  
20 I was with Chris on Wednesday night. I hadn't seen him any  
21 other night that week, and most of the other people I had  
22 been with were friends, but I hadn't known them as long.

23 Q Okay --

24 A The date with Beth.

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1 Q Okay. Anything else that you can recall at this  
2 point?

3 A Everything else.

4 Q Was the phone call from Jennifer anything  
5 particular?

6 A Yeah, I guess. I don't know if I even -- yeah, I  
7 did write that down.

8 Q Okay. Looking at that schedule now, is there  
9 anything that you wrote on there that you did not do on the  
10 day that you told Detective Freesmeyer?

11 A No.

12 Q In any of your conversations with the officers at  
13 anytime thereafter, did you ever tell them to the best of  
14 your recollection that you had done something that you had,  
15 in fact, not done?

16 A No.

17 Q On occasions you have been asked, have you not, by  
18 one or more officers what you did after you got off work  
19 Wednesday morning. Do you recall that?

20 A Yes.

21 Q Do you recall telling them on several occasions  
22 that after you got home -- or off work Wednesday morning  
23 that you went home and went to bed?

24 A Yes.

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APPENDIX 001076

1 Q Did any of those officers ever bother to ask you,  
2 "Did you go to the bank on Wednesday morning?"

3 A No.

4 Q Ultimately it was made known to you that they knew  
5 you had gone to a bank, right?

6 A Right.

7 Q Prior to that, did -- did you ever say to any of  
8 these officers, "No, I did not go to the bank Wednesday  
9 morning."?

10 A No.

11 Q They never asked you, did they, --

12 A No.

13 Q -- "On Wednesday morning did you go home and go to  
14 bed?"

15 A No.

16 Q Well, did you go home afterwards and go to bed?

17 A After going to the bank, yes.

18 Q The question is, I'm asking you Wednesday morning,  
19 did you go home and did you go to bed?

20 A Yes.

21 Q You also went to the bank, --

22 A Yes.

23 Q -- right? Okay, and you never told them you  
24 didn't go to the bank?

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AB019016

APPENDIX 001077

1 A No.

2 Q Okay. At the time you were first pulled over and  
3 questioned at the station here in Rockford, there in  
4 Rockford, up there in Rockford, were you told when something  
5 had happened to Jennifer what day it had been?

6 A I was told Tuesday or Wednesday.

7 Q At anytime after that, up until some later  
8 conversation that Officer Freesmeyer had described that he  
9 told you that you would ultimately be arrested, did you know  
10 specifically a time or a day during the week?

11 A No, I did not.

12 Q Had you received the advice, that what we knew we  
13 could prove shouldn't be disclosed, because it didn't have  
14 to be, until they fessed up to when it was they say a crime  
15 had occurred?

16 A Yes.

17 Q Had you received the advice that they should make  
18 their case, if they were going to come up with some evidence  
19 to arrest you, based on evidence?

20 A Yes.

21 Q Did you ever tell the police anything that was not  
22 true?

23 A Never.

24 Q Did they ever ask you incomplete questions which

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C05202

AB019017

APPENDIX 001078

1 you answered?

2 A Commonly.

3 Q Did they ever ask you double questions which you  
4 answered?

5 A Commonly..

6 Q For example, at one point you ultimately testified  
7 voluntarily at the grand jury, did you not?

8 A Yes, I did.

9 Q You understood, at the time, that you had a choice  
10 legally that you could either appear and testify or choose  
11 not to?

12 A Yes.

13 Q Just as you have that right during this trial,  
14 right?

15 A Correct.

16 Q And you did appear at the grand jury. The  
17 procedure there, was it not, that your attorney could  
18 accompany you?

19 A Yes.

20 Q But could do nothing else?

21 A Correct.

22 Q Could not ask questions?

23 A Correct.

24 Q Could just sit and observe?

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AB019018

APPENDIX 001079

1 A Right.

2 Q Okay. For example, you were asked a double  
3 question on one case there by Mr. Souk, weren't you, about  
4 if you're going to go to First Federal or going to visit  
5 some of your friends, do you go through town?

6 MR SOUK: Judge, I'm going to object at this point.  
7 If he wants to call his attention and quote from the  
8 transcript in the proper context, I don't have any  
9 objection. But summarizing and characterizing my questions  
10 without doing that is --

11 THE COURT: All right, do you have a specific --

12 MR. BEU: I thought the objection might be that I was  
13 using a prior inconsistent statement, your Honor, and I  
14 thought I could be prepared for that objection. I do have  
15 that, your Honor.

16 THE COURT: I think perhaps if you just want to refer  
17 to the specific question and answer, if you would please.

18 MR. BEU: On page 377 of the grand jury transcript,  
19 counsel.

20 Q (By Mr. Beu) Alan, do you recall being asked,  
21 "Where do you bank? Answer: Bell Federal Savings & Loan.  
22 Question: When you go there, or to your friends that you  
23 mentioned that live on the east side of town, do you go  
24 through Rockford? Answer: Yes. Question: That's your

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AB019019

APPENDIX 001080

1 normal route of travel? Answer: Yeah." Do you recall  
2 being asked and answering a series of questions such as  
3 that?

4 A Yes.

5 Q As a matter of fact, if you're going to visit any  
6 of your friends in Rockford, what route would you normally  
7 take?

8 A I would drive through, through Rockford.

9 Q If you were going from your home to the IGA store,  
10 for example, at Sandy Hollow, what route would you take?

11 A I would take Route 20.

12 Q Why?

13 A Why, because it's one specific place far on the  
14 other side of town. There's no point driving through town  
15 if you're not going to stop at places there inside.

16 Q And why is that?

17 A Every one of my friends lives throughout, all over  
18 Rockford -- sorry.

19 Q Okay --

20 A So --

21 Q What is the main difference in driving from your  
22 home directly, for example, to Sandy Hollow IGA store  
23 through town or on the bypass?

24 A The main difference?

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AB019020

APPENDIX 001081

1 Q Yes.

2 A Time.

3 Q And what's the main difference in driving from  
4 your home to and from Bell Federal either through town or on  
5 the bypass?

6 A Time.

7 Q When you were first talking to Detective Daniels  
8 he told you, did he not, variously that Jennifer had been  
9 seriously injured and in the hospital, and then that she was  
10 dead, and then that she was seriously injured? Did he make  
11 statements like that to you in that first statement?

12 A Yes.

13 MR. SOUK: Your Honor, I'm going to object and ask to  
14 approach the bench..

15 THE COURT: You may.

16  
17 (WHEREUPON THE FOLLOWING DISCUSSION WAS  
18 HAD AT THE BENCH:)

19  
20 MR. SOUK: That question is not based on fact in  
21 evidence. The facts that are in evidence from Detective  
22 Daniels' testimony and the transcript that the jury heard,  
23 he said he was first told that she was dead, and then any  
24 conversation about her possibly being injured instead of

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APPENDIX 001082

1 dead occurred after the tape ran out and at the end of the  
2 interview. The question he just asked started off with  
3 saying did you and did he:

4 MR. BEU: This is not rebuttal. It's our case in  
5 chief.

6 THE COURT: Well, I understand that.

7 MR. BEU: His point is whether it's in our case in  
8 chief of what questions might have been asked or answered at  
9 the grand jury.

10 THE COURT: I understand that. Hold on just a minute.  
11 Objection is overruled.

12  
13 (WHEREUPON THE FOLLOWING PROCEEDINGS  
14 WERE HAD IN THE PRESENCE OF THE JURY:)

15  
16 THE COURT: All right, objection is overruled. You may  
17 answer the question.

18 MR. BEU: I'd like the reporter please to read back the  
19 question so that --

20 THE COURT: All right, would you reread the question  
21 back?

22  
23 (WHEREUPON THE LAST QUESTION WAS READ  
24 BACK BY THE REPORTER.)

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C05207

AB019022

APPENDIX 001083

1 A Yes.

2 Q (By Mr. Beu) Was that first conversation with him  
3 the first time that you had heard it stated that Jennifer  
4 Lockmiller was dead?

5 A Yes.

6 Q Later, do you recall conversations with Detective  
7 Freesmeyer during October in which he indicated to you that  
8 you were going to be arrested?

9 A Yes.

10 Q And that they were waiting on some laboratory  
11 tests?

12 A Yes.

13 Q From anything you have seen in the course of your  
14 contacts with the police, did you have any more reason in  
15 your mind to believe those statements than you did Detective  
16 Daniels' first statements to you?

17 A No.

18 Q Did you meet with Verne Pickett, the investigator,  
19 and then work with him in retracing your sequence of travel  
20 during the period from Sears Tuesday night on August 23rd  
21 through your return home after the police stop on Saturday  
22 night?

23 A Yes.

24 Q You've heard his description here of the process

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AB019023

APPENDIX 001084

1 that was taken, of you describing where he should drive to  
2 retrace those steps, and then him recording the mileage?

3 A Yes.

4 Q Okay. Did you try your best in going through that  
5 with him to direct him the routes that you, in fact, took on  
6 your various travels during that week?

7 A Yes, I did.

8 Q Alan, were you in Bloomington/Normal at anytime  
9 between August 4th of '93 and the beginning of the fall term  
10 of school?

11 A No, I was not.

12 Q Did you kill Jennifer?

13 A No.

14 MR. BEU: No further questions.

15 THE COURT: Cross?

16 MR. SOUK: May we approach, judge?

17 THE COURT: You may. Off the record.

18  
19 (WHEREUPON THE COURT AND COUNSEL WENT INTO  
20 THE CONFERENCE ROOM OFF OF THE COURTROOM  
21 AND HAD A DISCUSSION OFF THE RECORD.)  
22

23 THE COURT: All right, back on the record.

24 Ladies and gentlemen, we're going to recess the trial in

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AB019024

APPENDIX 001085

1 juror affidavit which will be filed of record.

2 All right, Mr. Beaman, if you would step forward  
3 and be resworn and take the witness stand again.

4  
5 ALAN W. BEAMAN,

6 the Defendant herein, having been called as a witness,  
7 having been first duly sworn on his oath, was examined and  
8 testified as follows, to-wit:

9  
10 THE COURT: All right, Mr. Souk, you may proceed with  
11 cross examination.

12 MR. SOUK: Thank you, your Honor.

13  
14 CROSS EXAMINATION

15  
16 BY MR. SOUK:

17  
18 Q Mr. Beaman, as I ask you questions, if there's a  
19 question that confuses you, or that you don't understand, or  
20 want repeated or rephrased, would you just ask please?

21 A Yes.

22 Q And if you need to look at any exhibit or any  
23 prior statement that you've made, anything like that, before  
24 you answer a question, if you will ask to do that. All

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C05210

AB017870

APPENDIX 001086

1 right?

2 A Yes.

3 Q Apparently, if I understood you yesterday, there's  
4 been times during this investigation when you've been  
5 confused by things that have been asked of you, even by me  
6 in grand jury. Is that right?

7 A Not necessarily confused, but asked a double  
8 question, yes.

9 Q Some of those happened in grand jury?

10 A Yes, sir..

11 Q And you felt, I believe, at one time you expressed  
12 you'd been harassed by the police during this investigation?

13 A Certainly.

14 Q All winter long, correct?

15 A Throughout.

16 Q Now when you were sitting in grand jury and  
17 answering questions there, Mr. Beu was sitting about three  
18 feet away from you, wasn't he?

19 A Yes, sir.

20 Q And you were informed at the beginning of that  
21 proceeding, were you not, that even though Mr. Beu couldn't  
22 ask questions, that you could consult with him whenever you  
23 wanted, right?

24 A Yes, sir.

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C05211

AB017871

APPENDIX 001087

1 Q And correct me if my recollection is wrong, but I  
2 don't seem to recall at anytime during the grand jury you  
3 ever asked to consult with your attorney at all, did you?

4 A No, I did not.

5 Q I don't recall that you ever asked me to rephrase  
6 a question, or said that you were confused, or you didn't  
7 understand the question, did you?

8 A I just did my best to answer your questions.

9 Q The initial interview that you had in this case  
10 with Detective Daniels, I take it from what you're saying  
11 you felt pretty mistreated during that interview?

12 A Yes.

13 Q And what was it about Detective Daniels, was it  
14 him, or Hospelhorn, or both of them?

15 A It was Daniels.

16 Q What was it that made you feel pretty mistreated  
17 about him?

18 A His attitude, he condescended me.

19 Q And he wasn't -- I mean we've heard the tape,  
20 right --

21 A Yes.

22 Q -- in the courtroom? On the tape he wasn't  
23 shouting, or screaming, or that sort of thing at you?

24 A He was accusatory.

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C05212

AB017872

APPENDIX 001088

1 Q He was accusatory, all right. The part off the  
2 tape, is that basically the same thing, he was accusatory?

3 A Yes.

4 Q You were also upset and uncomfortable because it  
5 was a small room and you weren't allowed to smoke?

6 A That's true.

7 Q Anything else about Detective Daniels that upset  
8 you?

9 A Not specifically.

10 Q And at the beginning of that interview, after  
11 they'd gotten you down to the police station, they removed  
12 the cuffs and he told you at the start of the interview that  
13 you didn't have to answer any questions, and you could leave  
14 anytime you wanted to, didn't he?

15 A That is true.

16 Q And, in fact, you did leave when you wanted to,  
17 didn't you?

18 A Yes, I did.

19 Q And after that, the next time that you actually  
20 talked to any police officer was October the 12th when you  
21 talked with Detective Freesmeyer and Lt. Brown, correct?

22 A Correct.

23 Q And on that occasion and every time thereafter  
24 that Detective Freesmeyer talked to you, he read you your

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C05213

AB017873

APPENDIX 001089

1 Miranda Rights, didn't he?

2 A Yes, he did.

3 Q And told you that you didn't have to talk to him,  
4 right?

5 A Yes.

6 Q And he told you that anything that you said could  
7 be used in a court of law against you, didn't he?

8 A Yes.

9 Q Told you you could stop talking to him at anytime  
10 you wanted to, right?

11 A Yes.

12 Q And, in fact, on October 12th, you also stopped  
13 the interview at -- on your own, correct?

14 A I believe I had to go to a class.

15 Q Well, I'm talking -- maybe I have them mixed up,  
16 but you correct me if I'm wrong. I'm talking about the  
17 interview that was held up in this building in the --

18 A That was a later interview.

19 Q Maybe that was the one on the 22nd, the one that  
20 was here in this building. I think, you're right, it was  
21 the 22nd. That one you terminated on your own, correct?

22 A Yes, I did.

23 Q There you got upset with Lt. Brown, right?

24 A Yes.

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AB017874

APPENDIX 001090

1 Q And what did he do to make you upset?

2 A He brought me in, sat me down, and immediately  
3 started accusing me and saying, "Well, why don't you just  
4 tell me that you did it."

5 Q I think somewhere in your statement you indicated  
6 he yelled at you that day.

7 A Yes, he did.

8 Q Did he yell like yell, scream, shout, yelling, is  
9 that --

10 A Forcefully imposed his opinion on me.

11 Q His opinion was accusatory towards you?

12 A Yes, it was.

13 Q Before that session Freesmeyer had also read you  
14 your rights, correct?

15 A I believe so, yes.

16 Q And you knew that you could leave at any time,  
17 right?

18 A Yes.

19 Q In fact, you did?

20 A Yes, I did.

21 Q Got quite upset, didn't you?

22 A Yes.

23 Q That procedure persisted all the way through until  
24 your final interview on March the 9th with Detective

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C05215

AB017875

APPENDIX 001091

1 Freesmeyer, correct?

2 A Correct.

3 Q Even again on that day, he was still telling you  
4 your rights and that you didn't have to talk to him,  
5 correct?

6 A Correct.

7 Q And at some point after you got upset with Lt.  
8 Brown, you made it clear to Detective Freesmeyer that you  
9 would continue to talk, but only to him, correct?

10 A Correct.

11 Q And you continued to do that throughout the winter  
12 against the advice of your own lawyer, right?

13 A Correct.

14 Q Now you've indicated yesterday that your  
15 relationship with Jennifer basically spanned a little bit  
16 over a year, right?

17 A Yes.

18 Q And that early on, the first month, things were  
19 good. And then things started, with the fall semester,  
20 started to change this to a tumultuous relationship, and  
21 that really existed throughout the rest of the relationship?

22 A Yes.

23 Q A lot of ups and downs, right?

24 A Yes.

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C05216

AB017876

APPENDIX 001092

1 Q There was, in December of '94, an incident where  
2 you, in fact, did drink fingernail polish, correct?

3 A Correct.

4 Q And what was that fight over?

5 A It was over Meredith. I wanted to hang out with  
6 my friends and I wasn't allowed to, and so I did anyways,  
7 and then that night she got on my case, and I couldn't take  
8 it any more so I found a way to get her to shut up.

9 Q And the police and rescue came and --

10 A Yes, they did.

11 Q You got sick, but you were okay, right?

12 A Yes.

13 Q Really that incident was her fault, right?

14 A No, it was my fault.

15 Q Well, you were doing it to make her shut up?

16 A So, she didn't tell me to drink polish remover.

17 Q I take it what you said about Meredith, there was  
18 nothing to any relationship with you and Meredith?

19 A No.

20 Q So her jealousy in that regard was unreasonable,  
21 right?

22 A Yes.

23 Q You had what, briefly just talked some with  
24 Meredith after you broke up because of the miscarriage

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C05217

AB017877

APPENDIX 001093

1 situation?

2 A Basically, yes.

3 Q But there really wasn't any relationship between  
4 you to get jealous about?

5 A Yes.

6 Q She held that over your head the entire year?

7 A Yes.

8 Q Up until the end, even the last conversation that  
9 you're having with her on August 23rd on the telephone she's  
10 still talking about the Meredith situation, right?

11 A Yes.

12 Q So that was a big point of contention between the  
13 two of you the whole year, right?

14 A Correct.

15 Q But, of course, after you couldn't take any more  
16 and you drank the fingernail polish and you got her to shut  
17 up, still kept coming back and kept coming back, didn't you?

18 A She kept coming back, yes.

19 Q You kept taking her back?

20 A Yes.

21 Q Now there was, as you indicated, two door  
22 incidents, right?

23 A Correct.

24 Q And the first one was well before Mr. Swaine was

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C05218

AB017878

APPENDIX 001094

1 ever involved in this whole scenario, right?

2 A That is true.

3 Q And that one involved Mr. Murray?

4 A Correct.

5 Q John Murray?

6 A Hm-mmm.

7 Q A mutual friend of this whole group too, right?

8 A Yes.

9 Q And if I understood you correctly, she had broken  
10 up with you over the telephone the night that this incident  
11 happened?

12 A That is correct.

13 Q And you had been with them earlier, and they  
14 basically were, even though you were supposed to be going  
15 with her, they were making it clear to you that your  
16 presence really wasn't desired?

17 A That is correct.

18 Q And so you went on home, and then she called you  
19 and said, "You know, I'm done with you."?

20 A Hm-mmm.

21 Q Did she say she was taking up with Mr. Murray at  
22 that point?

23 A No, she did not.

24 Q Why did she tell you she was breaking up with you

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C05219

AB017879

APPENDIX 001095

1. at that point?

2. A What's that again, sir?

3. Q Why did she tell you she was breaking up with you  
4. at that point?

5. A Because I guess she wasn't happy with the  
6. situation, and I wasn't leaving her alone to go out and  
7. cheat on me.

8. Q And so after that happened, then is when you went  
9. over to her place. She was now, at that point, your ex-  
10. girlfriend, I take it?

11. A Correct.

12. Q And that's when you got upset and kicked in the  
13. door?

14. A Yes.

15. Q And when you went inside, after you kicked in the  
16. door, all you did was pick up your stereo and leave?

17. A I yelled at both of them, picked up my stereo and  
18. walked out.

19. Q But you certainly didn't touch anybody or lay a  
20. glove on anybody, correct?

21. A Certainly not.

22. Q Now previously, I think it was in your grand jury  
23. testimony, you've described your temper as one where you  
24. sometimes have periods of what you call righteous

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C05220

AB017880

APPENDIX 001096

1 indignation?

2 A Yes.

3 Q Was that particular incident what you would  
4 describe as one of your periods of righteous indignation?

5 A Yes.

6 Q Same with Lt. Brown?

7 A Certainly, yes.

8 Q By the way, when you were first questioned by  
9 Detective Daniels on August the 28th, you didn't tell him  
10 about the Murray door incident, did you?

11 A No, I did not.

12 Q In fact, you lied to him about it, didn't you?

13 A No, I didn't.

14 Q Do you recall these questions and answers:

15 "Detective Daniels --

16 MR. BEU: Page, counsel?

17 MR. SOUK: I'm sorry, page 27 of the August 28th.

18 Q (By Mr. Souk) "Detective Daniels: Did you ever  
19 come down just to check to see who she was dating?" Your  
20 answer, "No." "Daniels: Other than finding her with Mike  
21 that one night, you never did find her with anyone else?"  
22 Your answer, "No." "Daniels: Did you ever visit the  
23 apartment and find any occasion of another man staying  
24 there?" Your answer, "No." "Daniels: Have you ever been

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AB017881

APPENDIX 001097

1 told there's another man staying there?" Your answer, "No."  
2 "Daniels: Did you ever see any other men leaving or  
3 entering her apartment?" Your answer, "No." Remember those  
4 questions and answers?

5 A I guess, yes.

6 Q Well, you lied to Daniels, didn't you?

7 A No.

8 Q That's not a lie?

9 A No, it's not a lie. It's possible that I was not  
10 thinking along the same lines that you were thinking along.

11 Q Oh, you just kind of forgot about the Murray door  
12 incident at that point?

13 A It wasn't necessarily imperative. I figured it  
14 was several months ago and shouldn't have had anything to do  
15 with it.

16 Q So you were thinking about it and you just didn't  
17 tell him about it?

18 A No. Like I said, I don't think I was thinking  
19 along the same lines as you're thinking along.

20 Q You remembered during this interview to tell him  
21 about the Swaine door incident, didn't you?

22 A He asked me about Swaine.

23 Q He asked you about your whole relationship with  
24 Jennifer, didn't he?

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C05222

AB017882

APPENDIX 001098

1 A Yes.

2 Q You had only two incidents where you kicked the  
3 door in, right?

4 A I was never specifically asked about John Murray.

5 Q Other than finding her with Mike that one night,  
6 you never did find her with anyone else? That question is  
7 not one that would ask you about the Murray door incident?

8 A Not specifically.

9 Q What was he supposed to ask you, did you ever find  
10 her with John Murray?

11 A I suppose he should have.

12 Q Now you've indicated that all the letters that are  
13 variously part of People's Exhibit 4 are letters you've  
14 written at one time or another, correct?

15 A Yes.

16 Q "Thinking of you puts me to sleep at night and  
17 wakes me up in the morning." Those words you wrote to  
18 Jennifer?

19 A Yes.

20 Q "I really just want you to be with me and only me,  
21 selfish, but honest." Your words?

22 A Yes.

23 Q "I won't be able to handle this much longer  
24 without some growth in our relationship." Your words?

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C05223

AB017883

APPENDIX 001099

1 A Hm-mmm, of course.

2 Q "And now my bitter hands, frayed on broken glass,  
3 of what was everything, all the pictures have been washed in  
4 black, tattooed all I see, all that I am, all I'll be. I  
5 know some day you'll have a beautiful life. I know you'll  
6 be in the sun in somebody else's sky. But why, why, why  
7 can't it be? Why can't it be mine?" Your words?

8 A No, Eddie Vetter, Pearl Jam.

9 Q That's a band?

10 A Yes.

11 Q That's from a song?

12 A Hm-mmm.

13 Q That was from a song?

14 A Yes, sir.

15 Q You were quoting from that to express your  
16 feelings for Jennifer?

17 A Yes, sir.

18 Q That was included in your letters though, right?

19 A Correct.

20 Q "I don't know what my life is for yet, I don't  
21 know about anything for sure, but I know that I love you."  
22 Your words?

23 A Certainly.

24 Q "I know there's things about me that bother you,

1 but I want to make a change in my lifestyle. I want to be  
2 monogamous, and I want it to be with you." Your words?

3 A Yes.

4 Q "I love you. More passionately than Romeo did  
5 Juliet, more helplessly than Ophelia did Hamlet, more  
6 vengefully than did Medea, Jason. Don't worry, I won't kill  
7 anybody, I don't believe in that." Your words?

8 A Yes.

9 Q "With the most confusing and passionate love ever  
10 imaginable in anyone's wildest dreams, Alan." Your words?

11 A Yes. Taken out of context, but yes.

12 Q But you did have a passionate love for her,  
13 correct?

14 A Indeed.

15 Q And you were engaged at one point?

16 A Yes.

17 Q I take it this was not the kind of engagement that  
18 you put in the paper and you've got a wedding date planned  
19 and all that?

20 A We both felt it was not a good time to go  
21 announcing something like that to parents and family and  
22 such. We were both still in school. It was something that  
23 we had identified for ourselves, and would probably just  
24 cause more problems with families.

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AB017885

APPENDIX 001101

1 Q So it was true she didn't tell her parents, right?

2 A I wouldn't believe she would have, no.

3 Q Did you tell your parents?

4 A Later on, I believe.

5 Q But the engagement was never actually, if you  
6 will, broken until your last break-up?

7 A It was never fully verified after that point. I  
8 mean, it was just announced among friends, and then it was  
9 up to her whether or not we were engaged at that time or not  
10 pretty much.

11 Q Now before you get to the summer of '93, Mr.  
12 Swaine is never in the picture, right?

13 A Correct.

14 Q But, even in addition to the specific incidences  
15 that have been talked about, your having many problems with  
16 Jennifer, right?

17 A Certainly.

18 Q And you remember Mr. Cornell's testimony, the  
19 neighbor?

20 A It's been awhile, but --

21 Q Well, he testified there was a number of occasions  
22 that he heard you over there late at night pounding on the  
23 door, and shouting, and waking people up.

24 A Was there a specific number there?

1778

C05226

AB017886

APPENDIX 001102

1 Q Well, I think he said maybe three to five,  
2 something like that. I guess what I'm asking you --

3 A That would be about right.

4 Q Okay. So there was more than the Murray door  
5 incident, right?

6 A Yes.

7 Q Other occasions --

8 A I never broke the door down on any other  
9 occasions.

10 Q Except for the Swaine incident this summer?

11 A Well, yes.

12 Q There were other incidences that you were over  
13 there, again I take it periods of righteous indignation?

14 A Certainly.

15 Q And just kind of over the same thing? I mean were  
16 these occasions where you thought there was a man in there,  
17 or was something else going on?

18 A Occasions where I needed to talk to Jennifer.

19 Q And she didn't want to talk to you?

20 A Or couldn't.

21 Q Or couldn't? She wasn't home?

22 A I don't feel that I would be allowed to respond  
23 fully to that question.

24 Q Okay. Well, some times she did talk to you

1779

C05227

AB017887

APPENDIX 001103

1 through the door, right?

2 A Yes.

3 Q And she told you to get lost, right?

4 A Yes.

5 Q And you didn't get lost very easily, did you?

6 A Not very easily, but obviously I didn't break the  
7 door down. When you care about somebody, you worry about  
8 that person. You tend to stick around and try to make sure  
9 they're all right.

10 Q Now Mr. Swaine entered the picture basically,  
11 shall we call it, the Sigma Chi incident? Is that --

12 A Whatever.

13 Q June 11th?

14 A Yes.

15 Q Okay. Now on that occasion you were out of town,  
16 right?

17 A Correct.

18 Q And you came back, and the first you knew about it  
19 was one of the girls from upstairs came down and kind of  
20 grabbed Swaine and said, "We got to talk to you."?

21 A Hm-mmm.

22 Q And you followed along and listened through the  
23 door?

24 A Yes, I did.

1780

C05228

AB017888

APPENDIX 001104

1 Q And you could tell through the door what it was  
2 they were talking to Swaine about?

3 A Not really, but I could tell it had something to  
4 do with whether I was going to believe them or her, or  
5 something about something between Swaine and Jennifer. It  
6 was not specifically clear, but it did raise questions in my  
7 mind that had already begun to pop up.

8 Q Well, now maybe I forgot something here, but had  
9 Jennifer already, before that happened, had she already told  
10 you that some people were going to be telling you some  
11 things that you shouldn't believe?

12 A Yes.

13 Q That was right after you got back?

14 A Yes.

15 Q And she said it would relate to her and Swaine  
16 kissing, or necking, or something like that?

17 A I don't believe she said, directly said that it  
18 would relate to her and Swaine kissing, but --

19 Q Her and Swaine?

20 A I was aware that something was going to be said  
21 about her that supposedly was not true.

22 Q So she was kind of trying to head that off in  
23 advance, right?

24 A Yeah, she called it damage control.

1781

C05229

AB017889

APPENDIX 001105

1 Q Then after you listened at the door, Swaine did in  
2 fact talk to you, right?

3 A Yes, he did.

4 Q And he lied to you because he didn't tell you  
5 about Sigma Chi, did he?

6 A No, he didn't.

7 Q He told you they'd been kissing on the couch, or  
8 whatever, right?

9 A Yes.

10 Q And did he apologize to you?

11 A Yes.

12 Q Did you guys kind of say okay, or call a truce, or  
13 whatever?

14 A Well, it was never a comfortable situation from  
15 then on, but I did my best to forgive both of them.

16 Q I think Mr. Swaine had indicated that -- that you  
17 kind of said okay, and that you were more mad at Jennifer  
18 than at him?

19 A Well, she --

20 Q Would that be accurate?

21 A She was the one that was supposed to be my  
22 girlfriend, and she was supposed to be able to make that  
23 decision not to, you know, to be faithful or not to be.

24 Q Well, I take it that after Swaine talked with you,

1 you went and confronted Jennifer right away?

2 A I don't know how long it was, but maybe a day at  
3 the most.

4 Q When you confronted her, did she continue to deny  
5 that she and Swaine did anything?

6 A Yes, she did.

7 Q She denied even what Swaine told you?

8 A Yes, she did.

9 Q But obviously your suspicions were very much  
10 aroused, and that was the topic of interest for you the rest  
11 of the summer, right?

12 A Yes, it was.

13 Q You recall Mr. Swaine's testimony about maybe a  
14 couple of weeks after that incident you and he having a  
15 confrontation at the theater where you both were working?

16 A Yes.

17 Q Did that happen?

18 A What happen?

19 Q Did you have a confrontation with him at the  
20 theater, the two of you?

21 A Yes, we did.

22 Q During that conversation, was he accurate that you  
23 told him that you didn't want to work with somebody that you  
24 wanted to kill?

1783

C05231

AB017891

APPENDIX 001107

- 1 A No, that is not accurate.
- 2 Q You never said that?
- 3 A I never said anything about wanting to kill  
4 Michael.
- 5 Q Who -- who started that problem, him or you?
- 6 A What do you mean?
- 7 Q How did the confrontation --
- 8 A That conversation?
- 9 Q Yes.
- 10 A We were in the shop. I think he razzed me for  
11 being late, and I explained to him, "Look, it's not too easy  
12 for me to listen to what you tell me to do, or even have any  
13 respect for you as an employer, if you're sleeping with my  
14 ex-girlfriend and you won't even tell me about it."
- 15 Q At that point technically he was your boss, right?
- 16 A Yes.
- 17 Q Starting with the second show?
- 18 A As I was his boss during the time during which he  
19 was sleeping with my girlfriend.
- 20 Q So that kind of flip-flopped for the summer. Is  
21 that kind of to give everybody some experience of doing  
22 various things?
- 23 A Yes, it does.
- 24 Q But these are paying positions, right?

1784

C05232

AB017892

APPENDIX 001108

- 1 A Correct.
- 2 Q And even though you had this strained personal  
3 situation, he still is supposed to be in charge of what's  
4 going on there, right?
- 5 A Supposedly.
- 6 Q He was razzing you about being late?
- 7 A Yes, he was.
- 8 Q Were you late?
- 9 A Yes.
- 10 Q Were you late a lot?
- 11 A Five minutes often, yeah.
- 12 Q But not very much, and he was just what, kind of  
13 abusing his authority and giving you a hard time?
- 14 A I think you would get that consensus from anybody  
15 working there that summer, yes.
- 16 Q His position of power kind of went to his head a  
17 little bit?
- 18 A Yes, it did indeed.
- 19 Q By the way, how about the holes in the wall in  
20 Jennifer's apartment, did you make those?
- 21 A Which ones?
- 22 Q How many were there?
- 23 A Well, I've seen two.
- 24 Q Did you make any of them?

1785

C05233

AB017893

APPENDIX 001109

1 A I made one of them, yes.  
2 Q Which one was that?  
3 A The small dent in the living room wall is from  
4 where my forehead --  
5 Q What was your forehead doing against the wall?  
6 A Boom.  
7 Q One of your periods of righteous indignation?  
8 A More like desperately frustrated and smacked my  
9 head against the wall, kind of like, what am I doing, boom.  
10 Q What about the big hole that is in the bedroom  
11 wall?  
12 A I believe that's from a glass or a vase of some  
13 sort.  
14 Q That she threw?  
15 A Yes.  
16 Q At you?  
17 A Yes.  
18 Q How about the holes in the wall at your apartment  
19 on East Street, did she make those?  
20 A There is only one hole on the wall --  
21 Q And who --  
22 A -- on East Street.  
23 Q -- made that?  
24 A That was me.

1786

C05234

AB017894

APPENDIX 001110

1 Q That have anything to do with Jennifer?

2 A Well, had to do more with Swaine. After I dropped  
3 him -- or brought him home from the night that he borrowed  
4 my car to go over there, I walked in the door and kicked a  
5 hole in the wall in the kitchen.

6 Q That was the night where you had -- after you'd  
7 gone back over there, you picked him up and gave him a ride  
8 back home?

9 A Yes.

10 Q And you two had a peaceful conversation?

11 A Fairly peaceful, yes.

12 Q Fairly peaceful. When you got home -- I take it  
13 you restrained your urge to punch Mr. Swaine and you punched  
14 the wall?

15 A That would be speculation.

16 Q I guess let me ask it more directly. Were you so  
17 angry with Mr. Swaine that you wanted to hit him?

18 A No, I didn't hit him.

19 Q I didn't ask if you hit him. I asked if you  
20 wanted to hit him.

21 A If I wanted to hit him, I would have hit him.

22 Q But you wanted to hit the wall, so you broke a  
23 hole in the wall?

24 A Yes.

1787

C05235

AB017895

APPENDIX 001111

1 Q Now on, I believe it's June 29th, you had this  
2 incident where you -- you called 9-1-1, right?

3 A I did.

4 Q And that was because Jennifer called you and said  
5 she was going to kill herself?

6 A Yes.

7 Q She'd taken pills?

8 A Yes.

9 Q And when you got over there, lo and behold, she  
10 hadn't taken any pills?

11 A I don't know, she had a pretty high tolerance to  
12 those.

13 Q Well, the rescue people came, and they looked at  
14 her, and she didn't need any treatment, right?

15 A Correct.

16 Q And everybody left?

17 A Hm-mmm.

18 Q And she basically was just playing with your mind  
19 on that occasion, right?

20 A I would believe so, yes.

21 Q But, of course, the only way we know whether she  
22 took any pills or said she took any pills is through you,  
23 right?

24 A I guess. Why would I call 9-1-1 when I didn't

1788

C05236

AB017896

APPENDIX 001112

1 need to, though?

2 Q Now sometime in the middle of July is the Swaine  
3 door incident, right?

4 A Correct.

5 Q Was Jennifer afraid of you?

6 A I don't know, you'd have to ask her.

7 Q Did she ever express that she was afraid of you?

8 A She was afraid of everybody, for that matter. I  
9 mean I was loud. I yelled at her. I'd broken her door down  
10 twice. I mean, what do you expect?

11 Q Well, the question was, had she expressed to you  
12 that she was afraid of you?

13 A I suppose, yes.

14 Q Because of your -- just the door incidences, or  
15 these other incidences, too?

16 A I imagine the door is the most, what would most  
17 stick in your mind.

18 Q But her fear of you always related to either you  
19 being loud, or verbally abusive, or damaging property,  
20 right?

21 A Correct.

22 Q It would be correct, would it not, that you never  
23 laid a glove on her, right?

24 A That is absolutely true.

1789

C05237

AB017897

APPENDIX 001113

1 Q Or Swaine for that matter, right?

2 A That is absolutely true, too.

3 Q Now I believe you indicated yesterday that on that  
4 occasion you had loaned Mr. Swaine your car, and then  
5 followed him on a bike, right?

6 A Yes.

7 Q And he basically, I believe like he testified,  
8 kind of phoned up a conversation and told you he was going  
9 somewhere different than where he went, right?

10 A Yes.

11 Q And when you went over there, it was another of  
12 the shout and scream, pound on the door, and finally kick in  
13 the door kind of situation?

14 A Yes, it was.

15 Q But you couldn't find him?

16 A No, I couldn't.

17 Q What were you going to do that time if you found  
18 him?

19 A Get my keys, tell him he wasn't to drive my car,  
20 probably chew him out quite a bit.

21 Q Was his transgression this night for being with  
22 Jennifer, or was it for lying to you to get your car?

23 A I was angry at Michael for lying to me to get to  
24 my car, yes, because it didn't seem like to me a very nice

1790

C05238

AB017898

APPENDIX 001114

1 thing for him to do, to lie to me and then go flaunt things  
2 in front of my face, shall we say.

3 Q But I believe you said when you were shouting that  
4 night, you were shouting that at him about borrowing your  
5 car to --

6 A Yes.

7 Q -- to go see your ex-girlfriend, right?

8 A Yes.

9 Q She was your ex-girlfriend at that point, right?

10 A It doesn't matter, he's my roommate.

11 Q The question was, she was your ex-girlfriend at  
12 that point, right?

13 A Yes.

14 Q So the -- strike that. You've indicated that the  
15 testimony of Mr. Singley and Miss Jenkins about that evening  
16 was substantially accurate, correct?

17 A I suppose, yes.

18 Q And do you recall Mr. Singley describing you as  
19 being calm, and then exploding, like then you were out of  
20 control? Do you recall that?

21 A Yes, I recall him saying that.

22 Q Is that the way you get when you're righteously  
23 indignant?

24 A Not most of the time, but I was that night, yes.

1791

C05239

AB017899

APPENDIX 001115

1 Q But this -- was this another period of righteous  
2 indignation that night?

3 A Yes.

4 Q So you were particularly righteously indignant  
5 that night?

6 A No, I went beyond that. I did get angry. There  
7 is a difference.

8 Q His description of you was almost like your  
9 behavior was somewhat psycho. Would you agree with that  
10 description?

11 A Psycho, that's a nebulous term, sir.

12 Q Well, you previously, I think for Detective  
13 Daniels it might have been, somewhere you've described a lot  
14 of Jennifer's behavior as doing psycho kind of stuff,  
15 haven't you?

16 A It's still a nebulous term.

17 Q Well, when you used that to describe Jennifer,  
18 what did you mean by psycho stuff?

19 A Unpredictable, rather predictably unpredictable,  
20 waiting to pounce at any moment on anything that I would say  
21 or do.

22 Q Unreasonable?

23 A Unreasonable, yes.

24 Q Irrational?

1792

C05240

AB017900

APPENDIX 001116

1 A Yes.

2 Q Violent?

3 A You could characterize all those things.

4 Q And she was violent. She didn't -- well, maybe

5 she did. Did she strike you?

6 A She's punched me a few times, yes.

7 Q And she threw things at you?

8 A Yes.

9 Q And obviously she threw at least one thing at you

10 so hard that it knocked a huge hole in her bedroom wall?

11 A Yes, she did.

12 Q What -- obviously as you say, she kept crawling

13 back and you kept taking her back, right?

14 A Essentially.

15 Q I guess we haven't heard anything so far that

16 sounds like Jennifer has any redeeming quality. What was it

17 about this woman that kept you coming back?

18 A She was beautiful. She was intelligent. She was

19 passionate. I loved her.

20 Q But she had a lot of problems?

21 A Yes, she did, and I wanted to help her.

22 Q Now on July -- Sunday, July 25th, that's the day

23 you left town, right?

24 A Correct.

1793

C05241

AB017901

APPENDIX 001117

1 Q And I believe when you were speaking with Mr. Beu  
2 yesterday that you said that that was really the final  
3 break-up of your relationship, right?

4 A That was the point at which I knew that I wasn't  
5 going to have to worry about her crawling back to me,  
6 because I could leave. Up until that point, she was still  
7 constantly coming over to my apartment when I had told her  
8 and Swaine both that she was not to come over to my  
9 apartment. If they wanted to hang out, they could do it at  
10 her place. They kept coming over, and she kept saying  
11 things about maybe we can get back together.

12 Q And up until the 25th, you were basically feeling  
13 inside that you might still be susceptible to taking her  
14 back yet one more time?

15 A Yes, I felt so.

16 Q But on the 25th, that's when you kind of put some  
17 closure to you, as you said?

18 A When I knew that I had been lied to consistently I  
19 knew that there was no possible reason why I would want to  
20 take her back, and so I was able to leave.

21 Q But actually, if you want to put it in technical  
22 terms, you had, in fact, broken up for the final time even  
23 before the door incident, right?

24 A Yes.

1794

C05242

AB017902

APPENDIX 001118

1 Q Because you were calling her your ex-girlfriend on  
2 that night, right?

3 A Yes.

4 Q And that last break-up, she broke up with you,  
5 right?

6 A Correct.

7 Q And by your count, that was number 18, right?

8 A Roughly.

9 Q And 16 of those she broke up with you, and two  
10 you --

11 A Yes.

12 Q -- you broke up with her?

13 A Correct.

14 Q All 16 that she broke up with you, you came -- or  
15 she came crawling back and you took her back?

16 A Yes.

17 Q So it was the same pattern of the whole year. She  
18 would, for whatever reason, get so upset with your  
19 relationship that she would say, "I'm done with you," and  
20 then a day, or two, or three later, she calls you and she  
21 wants to get back together again, and you take her back?

22 A Yes.

23 Q Now on that day -- well, actually the night  
24 before, the 24th, your suspicions had already been

1795

005243

AB017903

APPENDIX 001119

1 considerably aroused because you were looking at condoms  
2 that night, right?

3 A Yes.

4 Q And you saw that there was some condoms somewhere  
5 that some were missing out of, right?

6 A Correct.

7 Q And you were pretty sure that nobody else in the  
8 apartment but Swaine would be using them, so that really set  
9 your suspicions on fire, so-to-speak, right?

10 A If you want to use that sensationalistic  
11 terminology, yes.

12 Q If you think -- I'm sorry, I'll rephrase it. You  
13 were suspicious because of that?

14 A Yes.

15 Q Was there anything else? I think somebody, I  
16 can't remember which witness now, said something about  
17 bubble bath and maybe some other things. Was there anything  
18 besides the condom that aroused your suspicions?

19 A I don't recall anything about bubble bath being  
20 any part of that, no.

21 Q But the next morning, on the 25th, everybody else  
22 went to work, right?

23 A Yes.

24 Q Jamie was visiting with you. Obviously he didn't

1796

C05244

AB017904

APPENDIX 001120

- 1 work with the company, and he was sleeping in, right?
- 2 A Correct.
- 3 Q And you stayed behind?
- 4 A Yes.
- 5 Q And you searched Mr. Swaine's room, right?
- 6 A Yes, I did.
- 7 Q And that's when you found the letters?
- 8 A Yes, I did.
- 9 Q And those letters confirmed to you that Swaine and  
10 Jennifer were sleeping together?
- 11 A Confirmed to me that the night, June 11th, had  
12 gone further than I had been told.
- 13 Q What was it in the letters that confirmed that to  
14 you?
- 15 A I'd have to see the letter to be able to be more  
16 specific for you. I think it was just the general context  
17 of the letter.
- 18 Q Show you People's Exhibits 39-B and C, and ask you  
19 first if those are the letters that we're talking about?
- 20 A I believe there is actually one more.
- 21 Q Are those the two that you attached to the letter?
- 22 A I thought I attached three to that letter to Dr.  
23 Brown, but that's possible that that's not the case.
- 24 Q Well, would you look at those two first, please?

1797

C05245

AB017905

APPENDIX 001121

1           A     Yes, I have the one in my hand that I'm talking  
2 about.

3           Q     Okay. And what is there in that letter that  
4 confirms your suspicions?

5           A     "Never before have I felt" --

6           MR. BEU: Your Honor, can we identify the exhibit  
7 number?

8           THE COURT: Yes, would you --

9           A     39-B, People's Exhibit.

10          THE COURT: All right.

11          A     "Never before have I felt so compelled to write.  
12 This afternoon was different. I awoke with smiles and a  
13 light tingling feeling, eager to get up and think about  
14 him," capital H-I-M, "and last night instead of clinging to  
15 the darkness of my room and despair of my thoughts. The way  
16 he looks at me, my God. The way he looks at anyone with  
17 those incredible deer-like eyes, so deep and brown and  
18 innocent. I couldn't, I can't stop thinking about him, and  
19 I don't want to stop. Ashamed and elated, I knew that this  
20 is what it means to be young. I consume and delight in the  
21 simple unexpected pleasures of his presence, an electrifying  
22 touch, an unexpected glance, a single coy exchange. Almost  
23 too much happiness to contain. He makes me laugh and think  
24 and feel, me, who is usually someone too numb or analytical

1798

C05246

AB017906

APPENDIX 001122

1 to experience the raw joy of life. For that, I am forever  
2 in his debt." Just seemed to me like there were specific  
3 sexual emotions displayed.

4 Q And it was after you found those letters --  
5 incidentally, you remember Mr. Thorman said he woke up and  
6 tried to get you to stop searching the room?

7 A He told me that it would not be the best thing for  
8 me to do, and that I really should just get out of there.

9 Q But you ignored that advice, of course?

10 A I had to have proof.

11 Q And then you went to the theater first, and then  
12 Jen's?

13 A Yes.

14 Q And at the theater, was that a -- how should I  
15 distinguish, was that a blow-up or a period of righteous  
16 indignation?

17 A A confrontation.

18 Q Confrontation, that was on your part, a period of  
19 righteous indignation?

20 A I would say at that point I was no better than  
21 Daniels.

22 Q So you went over there to cause a confrontation?

23 A Essentially, yes.

24 Q You had the proof, and you were going to shove it

1799

C05247

AB017907

APPENDIX 001123

1 in Swaine's face, and then quit?

2 A Yes, I was.

3 Q That was your purpose in going there?

4 A Yes.

5 Q But even though you went there with that purpose,  
6 it was really Swaine who started things off on the wrong  
7 foot when he said, "Get to work, dude." --

8 A Yes.

9 Q -- right? That's the first thing he said to you?

10 A Yes.

11 Q Even before you had a chance to shout and scream  
12 at him, and throw the letters at him?

13 A Well, I showed him the letters, and then all he  
14 said was, "Get to work, dude." He knew what I was there  
15 for, and he knew what was up.

16 Q But you just -- you were calmly showing him the  
17 letters, or you were shouting and screaming?

18 A I walked in. I said, "Mike, you know, I want to  
19 show you this," and I may have been agitated at that point,  
20 but I was not yelling yet at that point. And then he said,  
21 "Get to work, dude." And then I lost all reason to keep my  
22 cool with him, 'cause he was not listening to me.

23 Q And the incident from there was pretty much as --  
24 well, let's leave Mr. Swaine out -- I believe Katy and Chris

1800

C05248

1 Perry described it. Was their description pretty accurate  
2 as you recall?

3 A I'm not sure I fully recall their description.

4 Q Well, if I'm understanding you correctly, and I  
5 don't want to put words in your mouth, but it sounds like  
6 after he really pushed the wrong button by saying, "Get to  
7 work, dude.", that you pretty well lost your temper and got  
8 out of control verbally?

9 A Verbally, yes.

10 Q Didn't hit anybody?

11 A No, I did not.

12 Q You didn't damage any property that day, did you?

13 A No, I did not.

14 Q When you left, did you go straight to Jennifer's,  
15 or did you go back to East Street?

16 A I left to go to Jennifer's.

17 Q So it was after you went to Jennifer's that you  
18 went back and packed and left with Jamie?

19 A Yes.

20 Q So about what time was it that you went to  
21 Jennifer's, do you think?

22 A Probably around ten o'clock.

23 Q And when you got there, you've indicated that you  
24 were knocking on the door and calling through the door, and

1801

C05249

AB017909

APPENDIX 001125

1 she didn't want to let you in. How long did it take you to  
2 get in?

3 A Five/ten minutes.

4 Q And I think you said you cried some?

5 A Yes.

6 Q And then they finally opened the door for you?

7 A Yes.

8 Q And was that crying real crying or phony crying?

9 A It was real crying.

10 Q You heard Heidi's testimony, right?

11 A Yes.

12 Q And you heard her describe how you changed from  
13 crying to angry once you got into the door. That wasn't  
14 accurate?

15 A I don't know if it was necessarily such a broad,  
16 drastic shift that she's talking about. I was crying for  
17 part of the time that I was out there simply out of  
18 frustration and wanting to be able to communicate my views  
19 of what had happened with Jennifer, wanting to demand the  
20 truth, and have her finally just tell me the truth. But  
21 obviously that did not happen. She continued to deny it.

22 Q You just walked in?

23 A Yes.

24 Q You didn't shove past Heidi like she said?

1802

C05250

AB017910

APPENDIX 001126

1           A    No, there's no reason to shove when the door has  
2           been opened for you.  
3           Q    But once you got inside, you stopped crying and  
4           you started reading from the letter, right?  
5           A    Yes, I started reading the letter.  
6           Q    And you were very loud?  
7           A    Yes.  
8           Q    And you were reading this out loud to Jennifer to  
9           show her that you knew what you now knew, right?  
10          A    Correct.  
11          Q    And what was she saying?  
12          A    She was asking me to stop reading.  
13          Q    Did she say --  
14          A    Saying, "Shut up."  
15          Q    Did she say she had written that to Swaine?  
16          A    What's that now?  
17          Q    Did she say she had written that to Swaine?  
18          A    I don't remember if she admitted that or not.  
19          Q    Was the signature on the bottom, was that hers, or  
20          was it apparent that it was from her?  
21          A    No, it's not hers, but it's her writing style.  
22          Q    So you assumed it was from her?  
23          A    It was with all the other letters to him from her.  
24          Q    But she didn't -- she didn't say that she had

1803

C05251

AB017911

APPENDIX 001127

1 written it?

2 A Swaine had admitted to me it being from her.

3 Q Swaine did at the theater?

4 A Yes.

5 Q And -- but she was just trying to get you to be  
6 quiet and leave her alone, or what?

7 A Pretty much, yes.

8 Q How long were you there inside the apartment?

9 A Ten minutes, ten or 15.

10 Q And I guess even from the letters you weren't  
11 really totally sure, firmly convinced, at that point that  
12 they had, in fact, been sleeping together, 'cause then you  
13 searched the garbage, right?

14 A Yes, I did.

15 Q So you were still looking for yet one final piece  
16 of confirmation, some physical evidence, that would confirm  
17 in your mind that they were actually sleeping together,  
18 right?

19 A Correct.

20 Q 'Cause neither one of them had yet ever admitted  
21 that they had slept together to you, right?

22 A Correct.

23 Q That was part of your frustration, is people were  
24 lying and covering up and they weren't telling you the

1804

C05252

AB017912

APPENDIX 001128

1 truth, right?

2 A That is true.

3 Q And Heidi was correct that she eventually  
4 intervened herself verbally with you and got you to leave  
5 basically?

6 A Yes.

7 Q And that day, other than dumping the garbage out,  
8 you didn't damage any property, did you?

9 A No, I did not.

10 Q Never laid a glove on anybody, did you?

11 A No, I did not.

12 Q Then you went back and talked with Jamie and  
13 arranged to go with him, right?

14 A Yes, I did.

15 Q Was that the first time you and Jamie had talked  
16 about that?

17 A I believe it had been mentioned the night before.

18 Q So he already knew you were under a lot of stress  
19 and you were thinking about leaving?

20 A Yeah.

21 Q And he'd offered you a place to go cool it for  
22 awhile?

23 A Yes, he had.

24 Q And that's the point at which you wrote a letter

1805

005253

AB017913

APPENDIX 001129

1 to Dr. Brown --

2 A Yes, it was.

3 Q -- correct? And you attached 39-B and C along  
4 with that letter so he would understand where you were  
5 coming from, right?

6 A Correct.

7 Q At that point in time, Dr. Brown was kind of the  
8 head of the program. You hadn't been sharing on a daily  
9 basis what your problem had been, had you?

10 A No.

11 Q And that's also when Amy gets involved and calls  
12 Kelly Ullom, and at that point did you think you had  
13 permission from Dr. Brown to leave?

14 A As far as I knew it was going to be taken care of.  
15 That was the way I would phrase it.

16 Q But even if it wasn't, you were going to leave  
17 anyway, right?

18 A Yes.

19 Q You had taken as much as you could take, right?

20 A Correct.

21 Q Okay. And these are your words to Dr. Brown,  
22 aren't they, "I know this is unprofessional and childish,  
23 but they've been chewing at me since early July, and I'm too  
24 damn tired of this to be professional. If that means -- if

1806

C05254

AB017914

APPENDIX 001130

1 that makes me a nobody or means I'm through at IWU, okay.  
2 But the things that I found and witnessed about my  
3 aforementioned roommate and my ex-fiance have crushed any  
4 spirit I had to get out of this slump. It's really just  
5 time for me to leave. I'm just afraid I'd cause even more  
6 hell to break loose." Those are your words, aren't they?

7 A Yes, they are.

8 Q Now when you talked with Detective Daniels on  
9 August 28th, you had talked with him about the whole Swaine  
10 situation, right?

11 A Yes.

12 Q And you remember this question and answer --

13 MR. BEU: Page please?

14 MR. SOUK: I'm sorry, 27.

15 Q (By Mr. Souk) "Daniels: "How did you react when  
16 you found out she was dating your roommate, Mike?" Your  
17 answer, "I was pretty -- excuse me, I was pretty calm about  
18 it because, I don't know, it had been deteriorating, a  
19 deteriorating relationship anyways, and I was getting sick  
20 of her always yelling at me about other chicks. So finally  
21 I was like, you know, you got jealous about all these chicks  
22 and you're screwing my roommate, you know. And I was pretty  
23 calm about it and just, you know, I was pretty much  
24 indignant about it and not like screaming and yelling." You

1807

C05255

AB017915

APPENDIX 001131

1 remember that question and answer?

2 A Yes, I do.

3 Q That was a lie too, wasn't it?

4 A No, it was not. I was calm about it, very calm  
5 about it, up until the time at which Swaine borrowed my car  
6 to go see her, which was well after finding out anything  
7 about it. When first confronted with the issue, I talked to  
8 Swaine about it calmly. I talked to Jennifer about it  
9 calmly. Both of them denied most of it. But even so, I was  
10 maintaining my composure. That's not a lie at all.

11 Q Nowhere in your statement to Detective Daniels did  
12 you tell him about the blow-up on July 25th, did you?

13 A No, I didn't.

14 Q But I guess he didn't ask you about it, did he?

15 A No, he didn't.

16 Q So when you left town that day the relationship  
17 was over and you had put closure to it, and you went to Ohio  
18 just to relax and get away from it, correct?

19 A Yes, I did.

20 Q That was on Sunday, July 25th, correct?

21 A Correct.

22 Q And when did you arrive in Ohio?

23 A Later the same day.

24 Q On July the 28th at 6:33 in the morning you

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AB017916

APPENDIX 001132

1 attempted to reach Jennifer by phone, correct?

2 A I guess, if that's what's in the phone records,  
3 yes.

4 Q Well, shows a one-minute phone call. Do you know  
5 why you --

6 A Must have got the machine.

7 Q Do you know why you were trying to get ahold of  
8 her that day?

9 A Just to apologize for being such a jerk when I  
10 left.

11 Q On July 28th at 6:44 you tried again, and 6:49 you  
12 tried again, and 8:51 you tried again, and 9:31 you tried  
13 again, correct?

14 A Correct.

15 Q And that was all for the same purpose, right?

16 A Yes.

17 Q And then on July the 28th at 10:16 you tried, and  
18 you got through to her, and you talked to her 84 minutes,  
19 right?

20 A Correct.

21 Q Take 84 minutes to apologize?

22 A No, Swaine was there also.

23 Q Talked to Swaine some, that's the conversation  
24 that you talked to Swaine some?

1809

C05257

AB017917

APPENDIX 001133

1 A Yes, it was.

2 Q Everything was calm between the three of you?

3 A For the most part, yes.

4 Q You apologized, and you had let go of it at that  
5 point?

6 A I mean I was in the process of letting go.

7 Q July the 31st, 7:03 in the evening, you called  
8 Jennifer from Ohio, three-minute phone call. Do you recall  
9 what that was about?

10 A No, I don't.

11 Q On the same day at 7:07 you called and have an  
12 eight-minute phone call. Do you recall what that was about?

13 A No, I do not.

14 Q Why were you still calling from Ohio at that  
15 point?

16 A I don't know.

17 Q Now you then came back through here on the 4th of  
18 August, right?

19 A Yes.

20 Q And you had, like everybody has said, you had  
21 packed your car and left it in the parking lot with your  
22 things in it, right?

23 A Yes.

24 Q When you came back through, did you see her first

1810

C05258

AB017918

APPENDIX 001134

1 or Swaine first?

2 A Swaine first.

3 Q And you called her from your old apartment and

4 told her you were coming over?

5 A Yes.

6 Q She said okay?

7 A Yes -- actually, I believe Swaine suggested that I

8 call her.

9 Q And when you saw Swaine, there were no problems

10 between the two of you?

11 A No.

12 Q Okay. By that time you definitely had put closure

13 on the situation, 'cause you'd had your time in Cincinnati

14 to get away from --

15 A Yes.

16 Q -- and you were cool, right?

17 A Yes.

18 Q Everything was okay?

19 A Yes.

20 Q And on that day you told Swaine that she's yours?

21 A Yes.

22 Q I'm out of here, right?

23 A Correct.

24 Q Couldn't take any more of it?

1811

C05259

AB017919

APPENDIX 001135

- 1 A No.
- 2 Q But you saw him at your old apartment on that day,  
3 right?
- 4 A Yes, I did.
- 5 Q Didn't see him at Jennifer's apartment?
- 6 A No, I didn't.
- 7 Q And when you went over there, it was during the  
8 noon hour, right?
- 9 A Correct.
- 10 Q She had a one o'clock class, correct?
- 11 A Yes.
- 12 Q That was still during the summer session, right?
- 13 A Yes.
- 14 Q Jennifer was in summer school, right?
- 15 A Right.
- 16 Q When you went over there, was she watching All My  
17 Children that day?
- 18 A I don't recall if she even -- I don't think she  
19 even had the T.V. on.
- 20 Q But you were aware that that was one of her  
21 favorite programs, right?
- 22 A Yes.
- 23 Q I think, as Heidi said, she even scheduled her  
24 classes around that?

1812

C05260

AB017920

APPENDIX 001136

1 A Yes.

2 Q She loved All My Children?

3 A Yes.

4 Q You had a short conversation with her?

5 A Yeah.

6 Q Drove her to class, kissed her good-bye?

7 A Hm-mmm.

8 Q And that was it as far as you were concerned?

9 A That was it.

10 Q You headed for Rockford?

11 A Yes, I did.

12 Q You had said your final good-bye to Jennifer

13 Lockmiller?

14 A Yes, I had.

15 Q Now the phone records indicate that the next day,

16 August the 5th, at 1:52 in the morning, she attempted to

17 call your home. Shows no time on there. Were you aware she

18 tried to call you that day?

19 A No.

20 Q You were aware that she called you on the 8th day

21 of August at 12:11 in the afternoon, weren't you?

22 A Don't -- I don't really remember that.

23 Q Well, it shows a phone call of 38 minutes, 52

24 seconds. Recall a fairly lengthy conversation?

1813

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AB017921

APPENDIX 001137

1           A     I suppose I might have talked to her then, because  
2 no one else would talk to her for that long at my house.

3           Q     And on the 10th, at 1:46 in the morning, there's  
4 an attempt to call you that shows no time. Do you recall it  
5 being anybody attempting to call you then?

6           A     No.

7           Q     Then on the 10th, at 4:17 in the afternoon, shows  
8 a 59-minute phone call initiated by Jennifer to your home.  
9 Do you remember that phone call?

10          A     No, I do not.

11          Q     Do you recall talking to her during that time?

12          A     Yes, I do.

13          Q     Before she went to California?

14          A     Yes.

15          Q     All right. This seems to show two rather lengthy  
16 phone conversations. What are you recalling?

17          A     I -- you have the phone records, I don't. I mean  
18 I don't really remember if I talked to her, or what I talked  
19 to her about, either way, so --

20          Q     You don't recall what you talked about?

21          A     No.

22          Q     There's no discussion during that time period  
23 about your relationship?

24          A     Not really. I mean certainly there is, but

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C05262

AB017922

APPENDIX 001138

1 there's a relationship between everybody in some way, shape,  
2 or form.

3 Q Well, I thought you said you were done with her?

4 A She still exists, and I still exist, and she calls  
5 me on the phone, so therefore there is a relationship.

6 Q So you were just trying to remain friends at that  
7 point. Is that what you're saying?

8 A Yes.

9 Q Now, at that point, during those two lengthy phone  
10 calls on the 8th and the 10th of August, is she crawling  
11 back at that point?

12 A I don't believe so, no.

13 Q Okay. So you're just talking, and maybe trying to  
14 maintain at least a friendship, or some kind of talking  
15 relationship so you're not mad at each other all the time,  
16 right?

17 A Something like that, yeah.

18 Q You knew she was going to California?

19 A Yes.

20 Q And she must have told you approximately when she  
21 was coming back?

22 A No, not actually. She had been talking about  
23 going to California for months though.

24 Q You did try to reach her on the 17th of August,

1815

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AB017923

APPENDIX 001139

1 and left an answering machine message, right?

2 A Yes, I did.

3 Q Why were you trying to reach her?

4 A See if she got back yet all right. I didn't know  
5 exactly even when she was getting back, and so I called to  
6 see if she was all right.

7 Q The phone records on the 19th indicate at 19  
8 minutes after midnight that she made an attempt to call you.  
9 Were you aware of that attempt?

10 A No.

11 Q The phone records, as I'm sure you're aware, show  
12 on Sunday, the 22nd, a very large number of attempts by  
13 Jennifer, most with no time showing, to reach you, most in  
14 the morning, but one of them being at 3:57 that afternoon.  
15 You weren't aware on that Sunday of any other of those  
16 attempts?

17 A No, I was not.

18 Q Several of them seemed to show 46 seconds, 29  
19 seconds, a couple that would have been long enough to  
20 perhaps leave an answering machine message. But you weren't  
21 aware of any answering machine messages that day?

22 A No, I was not.

23 Q Your phone at home did have an answering machine,  
24 didn't it?

1816

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AB017924

APPENDIX 001140

1 A Yes.

2 Q In your statement to Detective Daniels, you  
3 remember these questions and answers --

4 MR. BEU: Page, counsel?

5 MR. SOUK: Page nine.

6 Q (By Mr. Souk) "Daniels: When did you last see  
7 her?" Your answer, "When did I last see her? I last saw  
8 her before I came back to Rockford. Daniels: Which was  
9 when?" Your answer, "Which would have been like the 4th of  
10 August. Daniels: Okay. Had you called her since then?"  
11 Your answer, "I have not called her. She has called me  
12 twice." Remember those questions and answers?

13 A Yes.

14 Q So when you said, "I've not called her." that was  
15 a lie, wasn't it?

16 A No, it was not. I just didn't remember.

17 Q You forgot that you tried to call her on the 17th?

18 A Yes. Maybe it's because I didn't get through.

19 Q Now on the 23rd of August, the Monday of that  
20 week, you've testified about your activities that day, and  
21 that you did, in fact, have a phone conversation with  
22 Jennifer that evening, correct?

23 A Yes, I did.

24 Q The phone records indicate two prior attempts by

1817

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AB017925

APPENDIX 001141

1 her at 12:57 and 5:13, very brief or zero time. I take it  
2 you didn't know of those efforts?

3 A No, I didn't.

4 Q If I recall your testimony, you probably would  
5 have been asleep then?

6 A Yes.

7 Q But then at 7:39 that evening you talked to her  
8 for 13 minutes and 23 seconds. That sound about right?

9 A Sure, it does.

10 Q And in those conversations, now she is crawling  
11 back, as you put it?

12 A Yes.

13 Q Pretty much very similar to the same pattern that  
14 had been followed all year?

15 A Yeah, it took her longer.

16 Q In that conversation she basically was upset and  
17 crying, right?

18 A Yes.

19 Q And she was telling you that what she'd done with  
20 Swaine was not really much worse than what you had done with  
21 Meredith, and that sort of thing, right?

22 A Yes.

23 Q She told you she was lonely, right?

24 A Yes.

1818

C05266

AB017926

APPENDIX 001142

1 Q And she told you that Swaine was out of town,  
2 didn't she?

3 A I believe she told me that he had left and did not  
4 want to see her any more.

5 Q Okay. Your -- however she put it, your  
6 interpretation was that after he'd done all this that  
7 summer, now he was turning around and dumping her after he'd  
8 slept with her, right?

9 A Yeah.

10 Q And so again if my interpretation is wrong,  
11 correct me, but basically the gist of it was she didn't have  
12 him any more and so now she tried to get you back?

13 A Correct.

14 Q Did she invite you to come down?

15 A No, she did not.

16 Q Your parents are both mistaken on that point?

17 A Yes, they are.

18 Q Never told either one of your parents that she  
19 invited me to come down that weekend?

20 A No, I never told anyone that she invited me down  
21 there.

22 Q You're sure?

23 A I'm sure.

24 Q And you terminated that conversation pretty much

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C05267

AB017927

APPENDIX 001143

1 in anger, having told her, "Why would I want to come back to  
2 you when you slept with my roommate and my friend?"

3 A Correct.

4 Q And I'm through with you?

5 A Yes.

6 Q And bang?

7 A Yes.

8 Q It's not only over that night, it had been over  
9 since August the 4th, correct?

10 A Yes, it had been over since June.

11 Q Yet, Mr. Beaman, just a few days later, on August  
12 the 28th of 1993 -- page 36, counsel, the bottom --

13 MR. BEU: Thank you.

14 Q (By Mr. Souk) -- Detective Daniels asked you this  
15 question: "Okay, let's say on a scale of one to ten, one  
16 meaning you greatly despise her and hate her, don't want to  
17 see her again, and then ten meaning I can't live without  
18 her, I'm so madly in love with her." Your answer, "Yes, I  
19 was I can't live without her, up until about last week."

20 Remember that question and answer?

21 A Yes.

22 Q That's what you told Detective Daniels, right?

23 A Yes.

24 Q He said, "Last week, okay, why do you say last

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AB017928

APPENDIX 001144

1 week?" And you said, "Um, I just started dating again. I  
2 met a girl and asked her out and we went out." Remember  
3 that?

4 A Yes.

5 Q Who was that girl?

6 A Beth Terresi.

7 Q That's the girl you had the date with on Friday  
8 that you previously testified about?

9 A Yes.

10 Q Had you had a prior date with her?

11 A No, but I had met her the week before.

12 Q But Friday, the 27th of August, was your first  
13 real date with her?

14 A Yes.

15 Q Now during that initial interview with the police  
16 on August the 28th, you remember a good way into the  
17 interview Detective Daniels asking you this question and you  
18 giving this answer -- 31, at the bottom, counsel --  
19 "Daniels: Okay, we have been sitting here talking  
20 approximately 45 to 50 minutes and you have never asked me  
21 once what this is about. Aren't you one bit curious?" Your  
22 answer, "I just figured you would tell me. I am curious,  
23 yes." Remember that?

24 A Yes.

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C05269

AB017929

APPENDIX 001145

1 Q And, in fact, Detective Daniels testified  
2 correctly that up until that point you had not asked any  
3 questions about what all this was about, right?

4 A Not of him, no.

5 Q Oh, you did ask some questions?

6 A Oh, yes.

7 Q Who did you ask?

8 A I asked the Rockford Canine Unit that pulled me  
9 over in the first place.

10 Q And they told you it was about a homicide in  
11 Normal, right?

12 A Correct.

13 Q But once you got down and started talking with  
14 Detectives Daniels and Hospelhorn, this exchange occurred  
15 and you had not yet ask him what was going on, had you?

16 A No. He immediately begun asking me questions, and  
17 so I answered those questions, and his line of questioning  
18 was mostly involved with Jennifer, and so I was fair to make  
19 an inference, I believe, that that's what he was asking me  
20 about. And so I simply waited for him to tell me what was  
21 going on.

22 Q Okay. So at that point in time you had been told  
23 by the officers who stopped you out on Kilburn Avenue that  
24 there was some detectives from Normal who wanted to talk to

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C05270

AB017930

APPENDIX 001146

1 you, right?

2 A Correct.

3 Q About a homicide in Normal, right?

4 A Correct.

5 Q And then when you got down to the station and  
6 Detective Daniels started talking with you, he told you that  
7 he wanted to talk to you about some of your acquaintances in  
8 Normal, didn't he?

9 A He told me in the car on the way there that he  
10 wanted to talk to me about my friend, singular.

11 Q Friend, singular?

12 A Yes.

13 Q Not acquaintances?

14 A No.

15 Q Did he say what friend?

16 A No, he did not.

17 Q Well, after he got through the preliminaries,  
18 basically up until this statement I just read to you, the  
19 whole conversation was about Jennifer and your relationship  
20 with her, right?

21 A Correct.

22 Q And it never occurred to you even one time to ask  
23 what's the matter; is something wrong with Jennifer?

24 A Well, I'd already been told there was a homicide,

1823

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AB017931

APPENDIX 001147

1 and I'd been told -- or then rather asked about Jennifer for  
2 45 minutes apparently. I was not aware of the time  
3 previously. So therefore, I felt that that was a good  
4 inference to make.

5 Q So this woman that you couldn't live without until  
6 the week before, so you told Daniels, you were assuming that  
7 she had been killed in a homicide at that point, and you  
8 never asked a question about whether she was dead or alive?

9 A What does a homicide imply, Mr. Souk?

10 MR. SOUK: Your Honor, would you direct Mr. Beaman to  
11 please answer my questions and not ask me questions?

12 THE COURT: If you would just respond to the questions  
13 that are being asked, please.

14 A Yes, sir. Please ask again.

15 Q (By Mr. Souk) You never asked even whether she  
16 was alive or dead?

17 A No, I did not.

18 Q In fact, you couldn't have cared less whether she  
19 was alive or dead, could you?

20 A That is not true.

21 MR. SOUK: This is in the first overhear, counsel, page  
22 283 to 285 of discovery.

23 THE COURT: Just wait a moment, Mr. Souk. Could  
24 counsel step up here for just a moment?

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AB017932

APPENDIX 001148

1  
2 (WHEREUPON A BRIEF DISCUSSION WAS HAD  
3 OFF THE RECORD.)  
4

5 THE COURT: All right, proceed.

6 Q (By Mr. Souk) These are your words to Mr. Swaine  
7 on September 8th, aren't they? Didn't you say, "She's,"  
8 referring to Jennifer, "in a better place."?

9 A Yes.

10 Q Didn't you say this, "Ah, see, it's things like  
11 that that make me not grieve about her."?

12 A That's correct.

13 Q He asked you why, and you said, "Why, because she  
14 f-ed me over." Right?

15 A Yeah.

16 Q "All I know is I got dragged through the mud for  
17 ten months, and then she died." Those are your words?

18 A Those are my words.

19 Q "She was never going to be happy, man." Those  
20 your words?

21 A Yes.

22 Q "She is better off than you are." Those your  
23 words?

24 A Yes.

1825

C05273

AB017933

APPENDIX 001149

1 Q "Can you imagine that it would be that horrible  
2 for her to be dead?" Those your words?  
3 A I'm not sure, let me see.  
4 Q You need to see the --  
5 A Yes. Taken out of context, but yes, those are my  
6 words.  
7 Q "And the only reason that I don't feel  
8 s-h-i-t-t-y at all, because she was just, you know, she was  
9 f-ing you." Those your words?  
10 A Yes.  
11 Q And, in fact, even back on August the 28th when  
12 you were talking with Daniels -- as a matter of fact, you've  
13 talked some about and so has Detective Daniels, about  
14 whether she was dead or whether she was alive, whether she  
15 was dead or whether she was alive. There was some confusion  
16 about that, right?  
17 A Yes.  
18 Q Okay. But the time when he told you that maybe  
19 she was injured instead of dead, that was the very end of  
20 the conversation, wasn't it?  
21 A I believe so, yes.  
22 Q In fact, it's in the part off the tape, isn't it?  
23 A I'm not certain if that's the case.  
24 Q Okay. Well, in any case, the first thing that he

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C05274

AB017934

APPENDIX 001150

1 told you, when he finally told you something, was that she  
2 was dead, right?

3 A Correct.

4 Q In fact, you recall these questions and answers --

5 THE COURT: Page?

6 MR. SOUK: I'm sorry, 34.

7 Q (By Mr. Souk) "Detective Daniels: It's very  
8 obvious the reason why we are here and asking you questions,  
9 and especially when the sergeant informed you it was  
10 concerning a homicide in Normal/Bloomington, now whose  
11 homicide do you think that is?" Your answer, "Why don't you  
12 tell me, I don't know. Daniels: Well, I want to hear your  
13 thoughts. Whose homicide do you think that it is?"  
14 Your answer, "I assume it's Jen's because you just keep  
15 saying, asking me questions about her. That's all you  
16 really asked me about. Daniels: Yeah, it is Jennifer's."  
17 Your answer, "Okay."

18 Those are questions and answers that occurred in  
19 that conversation?

20 A Yes.

21 Q That's when you first learned she was dead, right?

22 A Correct.

23 Q At that point you didn't -- hadn't yet heard the  
24 conversation you had about maybe she wasn't dead. You

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APPENDIX 001151

1 thought she was dead at that point, right?

2 A Yes.

3 Q You already assumed that, right?

4 A Yes, I did.

5 Q That's all you had to say, okay?

6 A Okay as in, okay, you told me.

7 MR. SOUK: This is a good time for a recess, your  
8 Honor.

9 THE COURT: All right, we'll take about a ten-minute  
10 recess at this time. If you would step down, back to your  
11 table. The bailiffs will take charge of the jury please and  
12 return them back to the deliberation room. If you would  
13 leave your notebooks on the chairs please. The court will  
14 be in recess for ten minutes.

15  
16 (WHEREUPON A RECESS WAS HAD.)

17  
18 THE COURT: All right, once again, this is 94-CF-476.  
19 Counsel and the defendant return to open court. Defendant  
20 will resume the witness stand, and the jury is presently  
21 outside of the courtroom.

22 Are you ready to proceed, Mr. Souk?

23 MR. SOUK: Yes.

24 THE COURT: Mr. Beu?

1 MR. BEU: Yes.

2 THE COURT: All right, call the jury back in.

3

4 (WHEREUPON THE JURY ENTERED THE COURTROOM  
5 AND THE FOLLOWING WAS HAD:)

6

7 THE COURT: All right, for the record, the jury has now  
8 returned to open court. Mr. Souk, you may continue your  
9 examination.

10 MR. SOUK: Thank you, your Honor.

11 Q (By Mr. Souk) Mr. Beaman, it's true, is it not,  
12 that you didn't attend Jennifer's funeral or the memorial  
13 service held down here for her, correct?

14 A That is true.

15 Q And I believe, was it Katy Corbett who indicated  
16 that they had approached you about that memorial service?

17 A Yes.

18 Q And you basically told her that, that it wasn't  
19 any affair of yours any more, that she'd been Swaine's, and  
20 it was of no interest to you basically, correct?

21 A Not of no interest to me.

22 Q Well --

23 A But it was not my place to be there.

24 Q You didn't send any flowers, or even a card to her

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APPENDIX 001153

1 parents?

2 A No.

3 Q And I believe you expressed at some point to Mr.  
4 Swaine that one of the reasons you didn't go to the funeral  
5 is that because you were her parents' number one suspect?

6 A Correct.

7 Q Why did you think you were her parents' number one  
8 suspect?

9 A Because they didn't like me in the first place.

10 Q Had you had some problem with Mr. and Mrs.  
11 Lockmiller, yourself, or you heard this from Jennifer?

12 A There was something that Jennifer had mentioned to  
13 me that I had called them about and asked them to please  
14 explain, and then there was a conversation, a short  
15 conversation between myself and Mrs. Lockmiller, about the  
16 door incident and she was not happy with me.

17 Q So you think they knew about one door incident or  
18 both door incidences?

19 A I don't know, it's whatever Jennifer told them.

20 Q But you said you had a conversation with Mrs.  
21 Lockmiller when she said something about a door incident?

22 A I believe that was previous to the second door  
23 incident, so it was still during the school year.

24 Q Well, was she talking about the first door

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AB017938

APPENDIX 001154

1 incident?

2 A Yes.

3 Q The Murray door incident?

4 A Yes.

5 Q So apparently she knew about that?

6 A Apparently so, yes.

7 Q Whatever it was you thought she knew about it  
8 anyway, right?

9 A Correct.

10 Q And so you knew that her parents knew some bad  
11 things that happened between you and Jen, and therefore you  
12 were the number one suspect anyway, right?

13 A Correct.

14 Q You hadn't communicated with her parents at all,  
15 had you?

16 A Not after that point, no.

17 Q I mean, one of her parents, or one of her  
18 brothers, or somebody in her family didn't communicate  
19 something to you indicating they thought you were the number  
20 one suspect, did they?

21 A No, they did not.

22 Q After Jennifer was dead, not only were you not  
23 sorry about her death, but you had bitter feelings towards  
24 her, didn't you?

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AB017939

APPENDIX 001155

1           A     Somewhat, but I was at the same time not happy she  
2 was dead. I wasn't in any way, shape, or form content with  
3 that.

4           Q     Are these your words to Mr. Swaine -- page eight --  
5 -- or page 287 of the discovery -- he asked you, "But why did  
6 you give up?" Your answer, "Why did I give up? 'Cause she  
7 took everything out of me and squished it." He says,  
8 "Then," and you say, "You don't understand it. I'm a hollow  
9 f-ing shell. All right? I have been for ten months.  
10 Stay out of it. I got nothing." He says, "What do I have?"  
11 You say, "I got no heart. I got no soul. I got no mind."  
12 Those your words?

13           A     Yes, they are.

14           Q     Then he says, "When you started to see it all go,  
15 why didn't you say 'f' it and leave her?" And you say,  
16 "Because I -- because the one f-ing thing I do have left is  
17 pride." And he says, "So you didn't want to say good-bye --  
18 I'm sorry, you said, "I wasn't going to be the one to do it,  
19 she was." Those your words?

20           A     That's correct.

21           Q     "Dude, that woman dug into me with every f-ing  
22 ounce of sharp silver she had every single time she could."  
23 Those your words?

24           A     Yes.

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APPENDIX 001156

1 Q "And after ten months of raking me over the coals  
2 about other chicks, like I'm even going to look at another  
3 chick right after she breaks up with me. Man, you know, she  
4 actually had me trained good. Mike: Why did you let her  
5 train you?" You say, "Powerful woman, man. She would have  
6 trained you, too, ten times worse." Your words?

7 A Yes, out of context, but yes.

8 Q You also told Detective Freesmeyer, didn't you, on  
9 October the 12th that she had raked you over the coals and  
10 left you a hollow shell, right?

11 A Correct.

12 Q Second overhear, page nine, page 303 of discovery.  
13 At the end of your second conversation with Mr. Swaine on  
14 September the 15th of 1993, did you have this exchange? He  
15 says, "And you are totally okay?" You said, "Dude, I'm  
16 freaked out. Okay, I am, but it's just like she wasn't  
17 mine. She didn't love me. She wasn't mine." He says, "But  
18 you said that she did." You say, "I'm just walking away.  
19 Dude, if she f-ed you in the Sigma Chi basement on June  
20 11th --"; he says, "Not in the basement." You say, "She  
21 didn't love me." He says, "That is BS because she f-ed you  
22 after that." You say, "She didn't love me any more." He  
23 says, "But, but she then, if she --" You say, "If she f-ed  
24 you, she didn't love me." He says, "Dude, don't leave."

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APPENDIX 001157

1 You say, "Don't try to tell me s-h-i-t that is not true.  
2 I'll leave." He says, "Alan, you said that she called you  
3 and said I love you, I need you back. Dude, I'm not going  
4 to be able --" And the last thing you said to him was, "She  
5 was b-sing me, and she was just looking for something to do  
6 while you were gone." Is that the conversation between you  
7 and Mr. Swaine?

8 A Yes, it is.

9 Q But she didn't invite you down?

10 A No, she didn't.

11 Q Now during the time period from the fall of '92  
12 'til about March of '93, up until the Murray door incident,  
13 you have previously indicated, I believe, that you were over  
14 there so much and spent the night so many times that you  
15 were practically living with her?

16 A Correct.

17 Q And you had a room on campus somewhere, I take it?

18 A Correct.

19 Q But you were spending a number of nights there?

20 A Yes.

21 Q Seven nights a week, six, five, four --

22 A Five or six, depends on the week.

23 Q And you had some of your stuff over there, but not  
24 all of your stuff?

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AB017942

APPENDIX 001158

1 A Yeah, I had some clothing over there, and a razor,  
2 and a brush.

3 Q During that period of time, I take it, you were  
4 having the sexual relationship you previously talked about  
5 on a fairly frequent basis?

6 A Yes.

7 Q After this, the Murray door incident, you go over  
8 there to get your stereo?

9 A Yes.

10 Q Is that all you had left there at that point?

11 A Yes.

12 Q The other stuff you'd already taken out?

13 A Hm-mmm.

14 Q So there'd already been some problems leading up  
15 to the actual door incident?

16 A Correct.

17 Q Was Mr. Murray kind of the center of those?

18 A Not necessarily.

19 Q Okay. After the Murray door incident you were in  
20 her apartment many, many, times after that, right?

21 A Correct.

22 Q And you spent the night there some?

23 A Yes.

24 Q All right. From that point on, how often would

1835

C05283

AB017943

APPENDIX 001159

1 you say you were spending the night at her apartment?

2 A Three or four nights a week.

3 Q Does that continue up until the final break in  
4 July?

5 A It continues up until approximately the end of  
6 June.

7 Q And then because of the Swaine situation, things  
8 rapidly go downhill and you stop spending the night with  
9 her, right?

10 A Correct.

11 Q The last time that you had sexual relations in her  
12 bedroom at her apartment was sometime in late June of '93,  
13 correct?

14 A Correct.

15 Q Now during this whole time period of your  
16 relationship, from the first time you go over there when you  
17 spend the night, does she have the same clock radio all that  
18 time?

19 A Yes.

20 Q And you touched that clock radio many times?

21 A Yes, I have.

22 Q That's the one that was used on a regular basis  
23 when you were there to wake people up, whether it was you,  
24 or her, or both, right?

1836

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AB017944

APPENDIX 001160

1 A Right.

2 Q And I take it that during that time period, up

3 through the end of June when you last had sex with her

4 there, that you would have touched almost any other

5 conceivable object in her apartment, correct?

6 A Yes.

7 Q Almost anything in the bedroom, correct?

8 A As far as I know, yeah.

9 Q Anything in the bathroom?

10 A Sure.

11 Q Kitchen?

12 A Sure.

13 Q I take it you were sharing, you know, kitchen

14 facilities and you'd go get stuff out of the fridge or cook

15 stuff --

16 A Correct.

17 Q -- or that sort of thing?

18 A Yes.

19 Q Air-conditioning on and off, close the windows,

20 anything like that?

21 A Yes.

22 Q The last time that you were there the -- her clock

23 radio was still there, as far as you know?

24 A Yeah.

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AB017945

1 Q After the last time that you had sexual relations  
2 with her near the end of June of '93, after that there would  
3 have never been any reason for you to touch that clock  
4 radio?

5 A No.

6 Q I didn't phrase that very good. Would there have  
7 been any reason for you to touch that clock radio again?

8 A No.

9 Q Now we're all obviously aware that you've been  
10 questioned a number of times about your whereabouts during  
11 the week of August 23rd, and in particular the day of August  
12 25th, correct?

13 A Correct.

14 Q And the first of those interviews would have been  
15 the August 28th/early morning of August 29th interview with  
16 Daniels and Hospelhorn, correct?

17 A Correct.

18 Q And during that interview you basically, that day,  
19 indicated that day you were asleep during the -- during the  
20 day, correct?

21 A Correct.

22 Q Which is in one form or another essentially what  
23 you contended, that you were asleep on the 25th, right?

24 A Correct.

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AB017946

APPENDIX 001162

1 Q And you indicated that -- excuse me -- that you  
2 went home and went to -- went to bed after work, right?

3 A Yes.

4 Q And after that interview you've already indicated  
5 that there was some confusion because of Detective Daniels  
6 getting you confused about whether she was alive or dead,  
7 right?

8 A Correct.

9 Q And you went home and you called your friend, Don  
10 Jones?

11 A Correct.

12 Q Did you make that call, or your parents did?

13 A I made that call.

14 Q Were you parents still up?

15 A Yes.

16 Q Mr. Jones didn't know at that point. He said he'd  
17 get back to you?

18 A Yes.

19 Q Then you went to church as scheduled the next  
20 morning, right?

21 A Hm-mmm.

22 Q And you had lunch with -- what's your friend's  
23 name?

24 A Amy Krehbiel.

1839

C05287

AB017947

APPENDIX 001163

1 Q You did have lunch with her?

2 A Yes, I did.

3 Q Then you went home and went to bed until maybe  
4 eight or nine o'clock that night?

5 A Something like that, yeah.

6 Q And when Mr. Jones called back that afternoon he  
7 talked to one of your parents, right?

8 A I don't know. I guess so.

9 Q Well, when you finally woke up at eight or nine  
10 o'clock, or whatever, one of your parents told you that Jen  
11 was dead for sure, right?

12 A Yes.

13 Q At that point in time, the call to Mr. Jones was  
14 the only call you'd made to determine the state of health of  
15 Jennifer, right?

16 A Yes.

17 Q Right, so you came home from church and you didn't  
18 know if she was alive or dead, right?

19 A Correct.

20 Q And you had this call in to Mr. Jones, right?

21 A Correct.

22 Q You didn't call Jennifer's family or anybody else  
23 to check on her welfare?

24 A I imagine that I wouldn't want to call Jennifer's

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AB017948

APPENDIX 001164

1 parents.

2 Q You didn't try any other source?

3 A No. I had talked to somebody who lived in  
4 Bloomington and figured that that person would be capable of  
5 finding out.

6 Q And you went to bed?

7 A Yes, I did.

8 Q Now actually the next time that you talked about  
9 your whereabouts on the week of the 23rd wasn't with the  
10 authorities, but it would have been with your mom and dad on  
11 August the 30th, right?

12 A I didn't talk about it with my mom and dad.

13 Q Well, they had indicated that there was some  
14 consultation with your lawyer, right?

15 A Yes, I spoke to counsel.

16 Q And people, at that point, were trying to recreate  
17 the prior week, and trying to make some notes about it, and  
18 that kind of thing?

19 A Correct.

20 Q And you -- just a second. At some point, while  
21 you didn't make the notes with your parents, you talked with  
22 them about the prior week, I take it?

23 A Not really in terms of notes, at least.

24 Q Well, did you see your mother's notes?

1841

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AB017949

APPENDIX 001165

1 A No.

2 Q You recall testifying at the grand jury here in  
3 this building, correct?

4 A Correct.

5 Q I believe that's in July of '93, right?

6 A Correct.

7 Q You recall my asking this question: "I take it  
8 you had a chance then and since then to see the notes that  
9 your mother made?" Your answer, "Yes." Recall that  
10 question and that answer?

11 A Not specifically, no.

12 Q You're saying now you never saw your mother's  
13 notes?

14 A I don't recall seeing them.

15 Q You've seen them by now, haven't you?

16 A Not specifically.

17 Q Not preparing for the trial you've never seen your  
18 mother's notes?

19 A Unless they were in the discovery reports.

20 Q You're not aware that your mother's notes said  
21 that she was home about three o'clock?

22 A I don't know.

23 Q Now on the 12th of October, that was your first  
24 conversation with Detective Freesmeyer, right?

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AB017950

APPENDIX 001166

- 1 A Right.
- 2 Q And Lt. Brown was somewhat present that day, but  
3 it was mostly you and Detective Freesmeyer, right?
- 4 A Right.
- 5 Q And that was the day that you wrote out the  
6 schedule, People's Exhibit 44, I believe it is?
- 7 A Correct.
- 8 Q And on that day on the schedule you said you got  
9 home about nine or ten, but you didn't put on the schedule  
10 when you woke up that day, did you?
- 11 A I guess not, I don't know.
- 12 Q You need to see the schedule?
- 13 A Yes, that would be helpful.
- 14 Q For the record, I'm showing the defendant People's  
15 Exhibit 44.
- 16 A What --
- 17 Q Did you put down on that schedule when you got up  
18 on Wednesday?
- 19 A Apparently not.
- 20 Q Okay. But when you talked to Detective Freesmeyer  
21 that day you told him that your parents woke you up about  
22 3:30 or four o'clock when they got home, right?
- 23 A I'm not certain.
- 24 Q Does that sound familiar, or is that totally

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AB017951

APPENDIX 001167

1 inaccurate?

2 A I --

3 MR. BEU: Object, your Honor. If he wants to question  
4 him about a prior statement he should ask him a specific  
5 question.

6 MR. SOUK: I'll withdraw that.

7 THE COURT: All right.

8 Q (By Mr. Souk) What did you tell Detective  
9 Freesmeyer?

10 A I have no idea. I can't look at my report.

11 Q I'm sorry, you can't look at your report?

12 A Well --

13 Q Want to look at his report?

14 A Sure.

15 Q Would that -- would that help refresh your  
16 recollection?

17 A It's possible.

18 Q Showing you, for the record, page 198 of the  
19 discovery that's been filed by the People in this case, and  
20 I have a highlighted section there. Ask you to read that  
21 and see if that refreshes your recollection.

22 A "I asked what time he woke up on Wednesday and he  
23 stated that his parents woke him up at around 3:30 to four  
24 when they got home."

1844

C05292

AB017952

APPENDIX 001168

1 Q Does that sound right?

2 A I suppose.

3 Q Well, I guess I want to make sure what your memory  
4 is.

5 A To quote Sgt. Freesmeyer, it has been quite a long  
6 investigation.

7 Q Well, maybe what I'm asking you is are you  
8 suggesting that Sgt. Freesmeyer would put something  
9 inaccurate down in his report?

10 A It would not surprise me.

11 Q He's one of the ones that has harassed you all  
12 year?

13 A More than several, yes.

14 Q On the 27th of October you had another  
15 conversation with Detective Freesmeyer, didn't you?

16 A Yes.

17 Q And, at that time, you told him that you were home  
18 about ten to 11 o'clock, and that your parents woke you up  
19 about 3:30 to four o'clock, didn't you?

20 A I guess.

21 Q And it was, at that time, that you were first told  
22 directly that you were going to be arrested in connection  
23 with this case, right?

24 A Yes.

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C05293

AB017953

APPENDIX 001169

1 Q And you were told that lab reports were -- lab  
2 analyses was still being done, correct?

3 A Yes.

4 Q And you were also first told then some of the  
5 other evidence against you in the case, weren't you?

6 A I believe so, yes.

7 Q You were -- you had given your fingerprints back  
8 on the 12th, right?

9 A Correct.

10 Q And on the 22nd you were told your fingerprints  
11 were on the murder weapon, right?

12 A Correct.

13 Q And you were told on that date that there was a  
14 lot of evidence about your relationship with Jennifer that  
15 might give you a motive for this crime, weren't you?

16 A Yes.

17 Q And you were also told that you had a gap in your  
18 alibi on Wednesday, the 25th, weren't you?

19 A That is correct.

20 Q And when you were told those things, you were  
21 communicating them back to your mother and your attorney,  
22 weren't you?

23 A Only to counsel.

24 Q You didn't tell your parents?

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C05294

AB017954

APPENDIX 001170

1 A No, I did not.

2 Q Page 72 of the grand jury. Again referring to  
3 your July, '93 grand jury testimony, my question: "And  
4 during these fall conversations, starting with October 27th,  
5 you've indicated before that's the first time that Detective  
6 Freesmeyer told you when the murder occurred, when your  
7 alibi had a problem, and that you would be arrested, right?  
8 Answer: Yes. Question: And I take it when matters that  
9 serious, that once the police were telling you that, at that  
10 point that you were sharing that with your parents?" Your  
11 answer, "Yes, and my attorney." Recall those questions and  
12 answers?

13 A Yes, I do.

14 Q And during that October 27th conversation  
15 Detective Freesmeyer asked you if you had any one over to  
16 your house. You told him no, right?

17 A Correct.

18 Q And he asked you if you'd made any phone calls  
19 that morning, and you told him no, right?

20 A Correct.

21 Q And again referring to Wednesday, August 25, 1993?

22 A Correct.

23 Q And for the first of a number of times, he, on  
24 that day, asked you for any additional evidence that you

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AB017955

APPENDIX 001171

1 might have that would help clear you, right?

2 A Correct.

3 Q Then you had another conversation with Detective  
4 Freesmeyer on the 5th day of November of 1993, correct?

5 A I believe so.

6 Q And during that particular conversation you  
7 indicated that your folks got home and woke you up, that  
8 your mother did probably about fourish, right?

9 A That's what I said, I guess.

10 Q And during that conversation you were again  
11 confronted with some of the evidence and asked again about  
12 the six-hour gap in your alibi from ten to four on  
13 Wednesday, August 25th, right?

14 A Correct.

15 Q I ask you if you recognize these questions and  
16 answers: "Freesmeyer: Have you found any other ways that  
17 we can try to clear you up, Alan? I mean we talked before  
18 that you've got that six-hour gap where you were home from  
19 ten to four." Your answer, "Yeah. Freesmeyer: You told me  
20 you were home sleeping. You told me that twice, right --"  
21 I'm sorry, we're on page 316 of discovery.

22 MR. BEU: Okay.

23 Q (By Mr. Souk) "-- that is not looking good. We  
24 talked about that you have got the motive, man, from all the

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APPENDIX 001172

1 letters that we saw. The infatuation that you had with her,  
2 and the way she was messing you around, that's not going to  
3 help you out. And I told you about the print that we found,  
4 Alan. You know, I don't know, I thought maybe you might  
5 have thought -- thought of something over the last week that  
6 we could use to try to clear you up." Your answer, "I  
7 haven't had time to think. Freesmeyer: I mean I don't -- I  
8 don't want to drag this thing out any longer than we have  
9 to, and I'm sure you don't either. It's got to be driving  
10 you nuts, too. But at this point it's just a matter of  
11 waiting for lab results, unless you can give us something  
12 else to work with. I got nothing, wait for the lab reports,  
13 I'll be around." His question, "Yeah, what time did you get  
14 home Wednesday, Wednesday morning?" Your answer, "I don't  
15 know, it's too long ago. Question: Can you give me a  
16 ballpark figure? Oh, probably around -- when did I go to  
17 the bank? Was it Wednesday that you have the deposit slip?"  
18 His answer, "Yeah. Probably about 11 then. Freesmeyer:  
19 You got home about 11 Wednesday morning?" Your answer,  
20 "Yep. Freesmeyer: What time did your folks get home to  
21 wake you up then?" Your answer, "Mom got home around  
22 fourish, probably about fourish. Freesmeyer: Your mom got  
23 home around four. What about your dad?" Your answer, "He  
24 doesn't usually get home until about five or six.

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AB017957

APPENDIX 001173

1 Freesmeyer: Five or six. Did you have any friends or  
2 anything over on Wednesday?. You were home asleep by  
3 yourself?" Your answer, "Went home and went to bed."

4 Recall those questions and answers?

5 A Yes, sir, I recall that.

6 Q On February the 16th of 1994 you had another  
7 interview with Detective Freesmeyer, didn't you?

8 A Yes.

9 Q And on that date he continued to tell you of  
10 evidence against you and asked you for evidence to clear  
11 you, right?

12 A Correct.

13 Q Do you recall him saying to you that day, "And  
14 then hopefully, you know, that I've talked to you about it  
15 enough. I've tried to give you all sorts of different  
16 opportunities. We talked about motive before, and you can  
17 very well tell there's a lot of motive pointing in your  
18 direction. We talked about opportunity, the fact that  
19 you've got that six-hour gap in your alibi. The fact that  
20 Jennifer knows you, and whoever it was appeared that she let  
21 them in the apartment willingly. That tells us that's  
22 somebody that she knows. You mention that you've gone  
23 through a garbage can a couple of times. Well, whoever  
24 committed the crime went through her garbage. Combine that

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AB017958

APPENDIX 001174

1 with the fact we've got your prints on the weapon, you  
2 know." Do you recall being told that that day?

3 A Yes.

4 Q "I'm trying to give you the opportunity to help me  
5 here in ways that I could try to clear you from it. Have  
6 you thought of any other ways we might be able to clear you  
7 out?" Your answer, "I told you everything I have."

8 Remember that?

9 A Yes.

10 Q On the 9th of March you had your last conversation  
11 with Detective Freesmeyer before he arrested you for this  
12 crime on May 17th, correct, last in-person conversation?

13 A Correct.

14 MR. SOUK: Page 207 of discovery.

15 MR. BEU: What was the number again?

16 MR. SOUK: 207.

17 MR. BEU: 207.

18 Q (By Mr. Souk) He again told you that day you were  
19 going to be arrested after the finish of the rest of the lab  
20 work, correct?

21 A Correct.

22 Q He asked you again that day if there was anything  
23 else that you could provide to help clear yourself in this  
24 investigation, correct?

1851

005299

AB017959

APPENDIX 001175

1 A Correct.

2 Q And on that day you said you told him everything,  
3 and you said, "Bring it on, I've told you everything I  
4 know." Right?

5 A Correct.

6 Q After those last two conversations on 11/5 and  
7 February the 16th, and again on March the 9th, were you  
8 communicating with your lawyer and parents still about what  
9 you were talking about with Detective Freesmeyer?

10 A I was communicating with my counsel, yes.

11 Q But not your parents?

12 A I didn't want to worry them with something that  
13 was possibly subterfuge.

14 Q Thought you were being tricked and bluffed?

15 A Absolutely.

16 Q So would it be accurate, again I don't want to put  
17 words in your mouth, but would it be accurate that during  
18 the entire time of the investigation going from August the  
19 28th of 1993 until you were arrested on May 17th of 1994,  
20 that the earliest time that you ever mentioned to Detective  
21 Freesmeyer that your mother would have come home and  
22 awakened you was 3:30 in the afternoon on the 25th?

23 A To any knowledge I would have while I was asleep,  
24 yes.

1852

C05300

AB017960

APPENDIX 001176

1 Q And your mother had not told you, at that point  
2 even, that she was home at approximately three o'clock?

3 A No.

4 Q And she certainly hadn't told you, at that point,  
5 that she was home at 2:15, right?

6 A No.

7 Q And the first time that you ever gave any  
8 statement indicating that your mother knew you were home at  
9 2:15 was when you testified at the grand jury in July of  
10 '93, right?

11 A Correct.

12 Q And you had found that out only in the week or two  
13 prior to the grand jury when your mother found the IGA  
14 receipt, right?

15 A Correct.

16 Q But it sounds like basically you weren't really  
17 talking to your parents any more because you didn't want to  
18 worry them, right?

19 A Correct.

20 Q Again referring to your grand jury testimony, do  
21 you recall these questions and answers: "Question: Well,  
22 obviously since you all started making notes on August 29th  
23 or 30th it was a matter that you talked about immediately  
24 after you knew you were a suspect, right? Answer: Yes.

1853

C05301

AB017961

APPENDIX 001177

1 Question: At that point in time, what had she told you  
2 about when she got home? Answer: I really don't know  
3 off-hand, roughly three, I think three. Question: You  
4 never said anything to Detective Freesmeyer about your  
5 mother getting home earlier than the time you were giving,  
6 right? Answer: No." Do you recall those questions and  
7 answers?

8 A Yes, I do.

9 Q Now as we previously mentioned, October the 12th  
10 is when you wrote out the schedule, People's Exhibit 44,  
11 correct?

12 A Correct.

13 Q And you still have that in front of you?

14 A Yes, I do.

15 Q Now I believe you indicated yesterday that, when  
16 Mr. Beu was asking you questions, that the things about that  
17 week that stood out to you were the ice cream social on  
18 Wednesday and seeing Chris Carbone that night, because that  
19 was the only day that you saw him that week?

20 A Correct.

21 Q Correct? And also your date with Beth Terresi on  
22 Friday stood out to you?

23 A Correct.

24 Q Is Detective Freesmeyer correct that when you

1854

C05302

AB017962

APPENDIX 001178

1 filled out People's Exhibit 44 that you filled in Wednesday  
2 first?

3 A Correct.

4 Q Do you remember that now?

5 A Yeah.

6 Q Again, calling your attention to the grand jury,  
7 "Question: Could you tell us" -- page 52, counsel. "Could  
8 you tell us how you filled it out? Answer: He walked me  
9 through the week, asked me questions about what I did that  
10 week, and I tried to remember as best I could about it.

11 Question: Did you fill it out from top to bottom, go  
12 through Monday thru Friday, or how did you do it? We just  
13 went from place to place. I don't know. It was just  
14 whatever I remembered as I remembered it." Remember those  
15 questions and answers?

16 A Yes, I do.

17 Q But now you're remembering that he's correct that  
18 you went to Wednesday first?

19 A That doesn't contradict that testimony.

20 Q Well, I'm just asking you for your memory now.  
21 You're clear you went to Wednesday first?

22 A Certainly.

23 Q 'Cause that's what stuck out in your mind that  
24 week?

1855

C05303

AB017963

APPENDIX 001179

1 A Yes.

2 Q Chris Carbone is a good friend of yours?

3 A Yes, he is.

4 Q You'd been roommates for a couple of years?

5 A Yes. The second year we were roommates was the  
6 year after Jennifer's death.

7 Q Was that the only time -- you said it was the only  
8 time that you saw him that week. Why would it be unusual  
9 for you to see him?

10 A He had been gone that summer on an archeological  
11 dig.

12 Q Okay. He'd just gotten back?

13 A No, that was -- that was this past summer  
14 actually. I don't remember where he was that summer.

15 Q But he had been gone and --

16 A I had been here and hadn't seen him that much.

17 Q Okay --

18 A So -- and I hadn't seen him any other night that  
19 week.

20 Q The week-long party that was held that week, that  
21 was the only night he went with you?

22 A Right.

23 Q The other nights you were there with other people?

24 A Correct.

1856

C05304

AB017964

APPENDIX 001180

1 Q Now calling your attention back to the interview  
2 by Detective Daniels on August the 28th, he asked you  
3 actually fairly early in the interview about your  
4 whereabouts the preceding week, correct?

5 A I believe so, yes.

6 Q And, in fact, he started with Friday and went  
7 backwards, didn't he?

8 A Correct.

9 Q Or started with Saturday and went backwards?

10 A Yes.

11 Q And he asked you about Wednesday, didn't he?

12 A Yes, he did.

13 Q Along with the other days that week, right?

14 A Yes.

15 Q And when he asked you about that basically three  
16 days later, three days after the 25th, did you tell him  
17 about the ice cream social and about Carbone?

18 A I don't recall. I believe so.

19 MR. SOUK: The Daniels' statement, page six and seven.

20 Q (By Mr. Souk) Recall these questions and answers,  
21 "Daniels: On Wednesday, August 25th, what did you do?"  
22 Your answer, "I'm trying to think what went on. I know I  
23 went to Olson's house that night, too. Daniels: Do you  
24 recall what time? Answer: His parents were out of town.

1857

C05305

AB017965

APPENDIX 001181

1 Oh, probably like ten. So I would have gotten up at seven  
2 or eight and went and eaten with my mom and dad. Daniels:  
3 Are you saying ten in the morning?" Your answer, "What?  
4 No, at night. Daniels: Ten P.M. at night, Wednesday  
5 night?" Your answer, "Yeah. Daniels: Who was there?"  
6 Your answer, "Who was there? People. Just friends of mine.  
7 Daniels: Okay, what did you do after you went to this  
8 house? Then I went to work. Daniels: What time did you go  
9 to work? Answer: One in the morning. Daniels: So you  
10 went to his house at 10 P.M. and you stayed there until  
11 about one A.M.? Answer: Yeah. What did you do prior to  
12 ten P.M.?" Your answer, "I hung out with my mom and dad.  
13 Daniels: And where were they?" Your answer, "At home.  
14 Daniels: Then during Wednesday, during the day, you were at  
15 home with your parents?" Your answer, "During the day I was  
16 asleep. Daniels: Okay, where were you sleeping?" Your  
17 answer, "In my bedroom. Daniels: Okay, so you were at  
18 home. Is that correct?" Your answer, "Yeah." Remember  
19 those questions and answers?

20 A Yes, I do.

21 Q So during that interview you not only didn't  
22 mention the ice cream social, you didn't mention going to  
23 church at all or rehearsing with Mitch Olson, did you?

24 A He was questioning me on the spot, and I had not

1858

C05306

AB017966

APPENDIX 001182

1 had time to think about what had gone on that week, and I  
2 was just being questioned and answering them to the best of  
3 my ability.

4 Q And you didn't mention anything about going to the  
5 party with Chris Carbone, did you?

6 A No, I did not.

7 Q You just told him what stood out in your mind at  
8 that time?

9 A I just answered his questions to the best of my  
10 ability.

11 Q Do you recall in the second conversation with Mr.  
12 Swaine on September the 15th of 1993?

13 A Yes, I do.

14 MR. SOUK: This is page five and six.

15 Q (By Mr. Souk) And you had a brief conversation  
16 with him about your alibi, right?

17 A Yes.

18 Q And he was from -- well, again correct me if I'm  
19 wrong, but at that point in time, you thought that he also  
20 had you on his list as the number one suspect, right?

21 A Yes.

22 Q And he was questioning you along the lines of what  
23 were you doing, or that sort of thing, right?

24 A Yes. His questions had been phrased in a manner

1859

C05307

AB017967

APPENDIX 001183

1 of accusatory questioning.

2 Q And do you recall him asking you this, "You said  
3 you have an alibi, right?" -- Sorry, this is page 299 of  
4 discovery, page five. Your answer, "Yeah, dude, it is  
5 totally solid. Mike: What did you do," I'm sorry, "What  
6 did you, what were you, what were you --" Answer: "I was  
7 out with Carbone Wednesday night. I was at a party every  
8 night that week. Carbone and I went to that party Wednesday  
9 night, and I have been at work every night." Remember those  
10 questions and answers?

11 A Yes.

12 Q Now, Mr. Beaman, when did you first know that the  
13 murder was alleged to have occurred on Wednesday, August  
14 25th?

15 A I had no positive confirmation of that until I was  
16 told that during the bond hearing. But that had been  
17 suggested to me either Tuesday or Wednesday by Tony Daniels  
18 during the untaped section of the first interview.

19 Q Oh, so that's not on the tape?

20 A Correct.

21 Q And, I take it, that's also the part where he was  
22 confusing you about whether she was dead or alive?

23 A Correct.

24 Q But he was telling you that whatever happened,

1860

C05308

AB017968

APPENDIX 001184

1 whether she got injured or got killed, that it happened on  
2 Tuesday or Wednesday?

3 A Correct.

4 Q Actually, the first time you were given any  
5 information like that was by Detective Freesmeyer on October  
6 27th, wasn't it?

7 A I don't know if Freesmeyer told me that as well,  
8 but I was given that information by Daniels. It was a  
9 suggested possibility of time of death.

10 Q Well, initially on the tape, at the start of the  
11 taped conversation, he asked you about the whole week as I  
12 just indicated. Is that correct?

13 A That is correct.

14 Q But you're suggesting off the tape he's  
15 pinpointing that down to Tuesday or Wednesday?

16 A Yes, he was.

17 Q Again, do you recall February the 16th talking  
18 with Freesmeyer on that day?

19 A Yes.

20 Q And do you recall him in the course of a  
21 conversation saying, "But with the time frame that doesn't  
22 make sense, Alan. I could --" And you saying, "I don't  
23 know what time she was killed. I don't know what day she  
24 was killed. Nobody will tell me that." Remember saying

1861

C05309

AB017969

APPENDIX 001185

1 that?

2 A That is true.

3 Q Now when you went to the bank on Wednesday  
4 morning, August the 25th, did you go alone?

5 A Yes.

6 Q I take it you left work alone?

7 A Yes.

8 Q You went home, right?

9 A Yes.

10 Q Nobody was there?

11 A No.

12 Q You drove alone to the bank?

13 A Yes.

14 Q Made your deposit?

15 A Yes.

16 Q Went home alone?

17 A Yes.

18 Q Went to bed?

19 A Yes.

20 Q And on August the 28th and October the 12th you  
21 hadn't told investigators about going to the bank, right?

22 A Correct.

23 Q And from -- if I understood your testimony  
24 correctly yesterday, and correct me if I've got the wrong

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C05310

AB017970

APPENDIX 001186

1 interpretation, but you were saying yesterday that again  
2 that you told them the truth. They just didn't ask the  
3 right questions. Is that what you were saying?

4 A I believe so, yes.

5 Q If they had asked you about the bank, you would  
6 have told them?

7 A Certainly.

8 Q And during either of those conversations, did you  
9 lie?

10 A No.

11 Q Call your attention again to the Daniels'  
12 interview on August the 28th. Question by Daniels, "Okay" -  
13 - I'm sorry, page 40. "Question: Okay, what were your  
14 hours Tuesday night?" Your answer, "Tuesday night I worked  
15 from one in the morning til, what time did I get off  
16 Tuesday, nine, ten. Daniels: Wednesday morning?" Your  
17 answer, "Yeah. Daniels: And where did you go when you got  
18 off of work?" Your answer, "I went home and went to bed."  
19 Do you recall those questions and answers from that  
20 interview?

21 A Yes.

22 Q And what exactly was it that Detective Daniels was  
23 supposed to ask you to get you to say that you went to the  
24 bank?

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C05311

AB017971

APPENDIX 001187

1           A     At that time I have no recollection of  
2 specifically going to the bank, just like I had no  
3 recollection of any other specifics of my week.

4           Q     I thought you just told me about two minutes ago,  
5 if somebody had asked you about it you would have told them?

6           A     Yes, but I didn't have the deposit slip. I didn't  
7 -- I mean I was not aware that I had gone to the bank. I  
8 was not directly remembering that. I mean, this guy just  
9 takes me to this little room and starts asking me questions  
10 about my week, and I don't have an opportunity to sit and  
11 think about it. I just answer questions to the best of my  
12 ability.

13          Q     You, during the grand jury, were asked this  
14 question, "During those two interviews you indicated to the  
15 police that after you got off work you went straight home,  
16 correct?" And your answer was, "As far as I knew, yes. I  
17 was not reminded of the fact that I'd been to the bank until  
18 Freesmeyer told me about my being on the camera. I had  
19 forgotten about going to the bank." That's what you said at  
20 the grand jury, right?

21          A     Yes, yes.

22          Q     And he further told you that on the interview on  
23 October the 27th, right?

24          A     Yes.

1864

C05312

AB017972

APPENDIX 001188

1 Q Okay. And, at that point, he told you for the  
2 first time that he discovered the bank video?

3 A Yes.

4 Q Alerting you to being at a bank, correct?

5 A Yes.

6 Q And, at that time, during that interview, he  
7 confronted you with the fact that you hadn't told about  
8 going to the bank previously, right?

9 A Correct.

10 Q And when he confronted you about that, you didn't  
11 tell him that you forgot, did you?

12 A No.

13 Q All you said is, "I didn't go to Normal."

14 A That is correct.

15 Q Now at the grand jury I asked you about this too,  
16 didn't I, this subject matter?

17 A I believe so, yes.

18 Q You remember these questions and answers:

19 "Question: And that would have been the next interview on  
20 October 27th that he then pointed out to you, did he not,  
21 that he had discovered that you were -- Answer: Yes.

22 Question: -- at the bank at 11 minutes after ten on  
23 Wednesday morning, right? Answer: Yes. And he pointed out  
24 to you a conflict in your testimony and asked you to explain

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C05313

AB017973

APPENDIX 001189

1 that, didn't he? Answer: Yes. You remember your response?

2 Answer: All I know is I forgot about going to the bank, and  
3 then that reminded me, so I didn't think it was that

4 important. Question: You remembered, did you tell him you

5 forgot? Answer: As far as I know. The conversation took  
6 place a long time ago. I don't remember a lot of these

7 things. Question: You sure you didn't just tell him, 'I

8 didn't go to Normal,' and not give him any other

9 explanation? Answer: Perhaps I said that. He had inferred

10 that my bank was awfully close to 39." That was the

11 questions and answers about this topic at the grand jury,  
12 right?

13 A Correct.

14 Q Now the testimony that you gave at the grand jury  
15 was the first time that you had ever indicated to Freesmeyer  
16 or anyone else in law enforcement that you went home before  
17 you went to the bank, right?

18 A I guess.

19 Q I'm not asking you to guess, Mr. Beaman --

20 A Well, could you ask the question again?

21 Q Well, you and Detective Freesmeyer on October the  
22 27th of '93, at that point you had a clear understanding  
23 between the two of you that he knew you went to the bank,  
24 and you knew that he knew, right?

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005314

AB017974

APPENDIX 001190

1 A Correct.

2 Q And you admitted that you went to the bank, right?

3 A Correct.

4 Q But until the grand jury, up until the grand jury,  
5 you had never told anyone that you had gone home first,  
6 correct?

7 A Correct.

8 Q And your purpose in going home was to get your --  
9 your money for a deposit, right?

10 A Correct.

11 Q And you had \$300 in cash and a hundred dollar  
12 check?

13 A Correct.

14 Q Didn't you have some additional cash besides that?

15 A Yes, he gave me \$495.

16 Q So you had another \$95, or at least a portion of  
17 that \$95 left that you also had at home?

18 A Yes.

19 Q And your reason for that was that you didn't want  
20 to take that money to work with you?

21 A I didn't want to take it into Rockford with me.

22 Q Pardon?

23 A I was going to a party, and I was going to work.

24 I would be in the city. It's not smart to carry that much

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C05315

AB017975

1 cash on you.

2 Q You didn't think you might lock it in your car?

3 A I knew better than that.

4 Q When you went to work -- by the way, the store is  
5 not open at that time of night, right?

6 A No, it's not.

7 Q Basically locked inside, right?

8 A Correct..

9 Q There's a number of other employees around you and  
10 Mr. Clark, at least several other in the bakery at least,  
11 right?

12 A Correct.

13 Q You'd taken some money to the mall the night  
14 before, hadn't you?

15 A I'd given it to my mother.

16 Q You had your cash with you at the mall, right?

17 A No, my mother had money.

18 Q Where did you give her the money?

19 A At home.

20 Q Oh, she asked you for the cash at home?

21 A Yes.

22 Q Not at the mall?

23 A Correct.

24 Q And you didn't take any money with you to the

1868

C05316

AB017976

APPENDIX 001192

1 mall?

2 A No.

3 Q You're even scared to take money to the mall?

4 A No, I just didn't need to take money with me. We  
5 were doing school shopping. It was understood that my  
6 parents were willing to buy me a few things before I went  
7 back to school.

8 Q So when you got off work on Wednesday morning, if  
9 I've got the timing wrong correct me, but basically you did  
10 an hour and a half of driving to make a bank deposit?

11 A Roughly, I mean I wouldn't necessarily think that  
12 it would take an entire hour and a half, but I would allow  
13 myself an hour and a half for driving.

14 Q And when you went to the bank that morning, you  
15 hadn't showered or cleaned up at all?

16 A No.

17 Q And those clothes that show on the bank video,  
18 those were the clothes you painted in the night before?

19 A Correct.

20 Q Now when was the very first time that you ever  
21 remembered about going to the bank once the investigation  
22 began on August the 28th?

23 A I imagine it was right around the same time that  
24 he asked me about it, or stated that he had seen evidence

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C05317

AB017977

APPENDIX 001193

1 that I was at the bank.

2 Q Okay. And that's the very first time that you  
3 remembered it, when Freesmeyer confronted you with the bank  
4 video evidence, right?

5 A Yes.

6 Q And, in fact, at grand jury when I asked you about  
7 that, you -- and I said you just forgot about that being at  
8 the bank, you said, yeah. I asked you if that was the first  
9 you'd recalled of it, once he told you that he had found  
10 that, and your answer was yes, right?

11 A Correct.

12 Q At that point in time I made you aware of the  
13 first time that you knew of that. In fact, I showed you a  
14 memo from Bell Federal indicating that Mr. Beu had called  
15 there to confirm your presence at the bank on Wednesday  
16 morning, the 25th, and that he had done that on September  
17 the 3rd of '93. I showed you that memo, didn't I?

18 A Yes, you did.

19 Q That was the first time that you knew about that,  
20 about the memo?

21 A Yes.

22 Q That's the first time that you knew that we,  
23 meaning law enforcement, had evidence that your attorney was  
24 making that inquiry on September 3rd, right?

1870

C05318

AB017978

APPENDIX 001194

1 A Certainly.

2 Q And you're still saying that the first time you  
3 ever remembered, once this investigation began, that you  
4 were at the bank was when Detective Freesmeyer told you?

5 A It's certainly possible that my mother found a  
6 deposit slip and got all excited and went to my lawyer with  
7 it. That's all I recall as far as knowing anything about  
8 it. I didn't even know that he had sent that memo until you  
9 showed it to me.

10 Q So you didn't know. Whoever told your lawyer, it  
11 was not you?

12 A That is correct.

13 Q And you didn't know anything about him making any  
14 inquiries?

15 A That is correct.

16 Q And your mother found -- well, let me back up a  
17 minute. Up until the time -- the work records from that  
18 week show that you got off at nine o'clock, right?

19 A Correct.

20 Q On Wednesday, correct?

21 A Yes.

22 Q And that is when you got off, right?

23 A Yes.

24 Q So up until the time that the bank evidence comes

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C05319

AB017979

APPENDIX 001195

1 into play, your gap in your alibi, if you will, is from nine  
2 o'clock until 3:30 or four in the afternoon, right?

3 A I suppose.

4 Q Okay. Once the bank evidence is uncovered, the  
5 gap in your alibi is cut down by an hour and 11 minutes,  
6 right?

7 A That is correct.

8 Q That proves you were in Rockford at ten minutes --  
9 or 11 minutes after ten, right?

10 A Yes.

11 Q And you're saying that maybe your mother found  
12 your deposit ticket and turned that over to your attorney  
13 and she never said a word to you?

14 A I don't recall anything about it. I was here.  
15 She was in Rockford. He was in Rockford. All of my contact  
16 with them was wrapped up in what I was busy doing at school.  
17 I had a show going up, and I had a lot of things going on in  
18 my life, and I couldn't sit around and think about things I  
19 didn't consider to be valid at all.

20 MR. SOUK: May we approach, judge?

21 THE COURT: You may. Off the record.

22  
23 (WHEREUPON A DISCUSSION WAS HAD AT THE  
24 BENCH OFF THE RECORD.)

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C05320

AB017980

APPENDIX 001196

1 THE COURT: All right, proceed.

2 Q (By Mr. Souk) Now you're, of course, now aware  
3 that there were two phone calls made out of your home at  
4 10:37 and 10:39 on the morning of Wednesday, the 25th,  
5 right?

6 A That is correct.

7 Q You didn't know that until you got the phone  
8 records and the discovery information, well after your  
9 testimony at grand jury, correct?

10 A Correct.

11 Q You, as I think you may have already indicated,  
12 had directly told Detective Freesmeyer when he asked you  
13 direct questions on October the 27th if you had anyone over  
14 at the house, or if you made any phone calls, and you told  
15 him no, correct?

16 A Correct.

17 Q And when you were asked about this topic at the  
18 grand jury, you did not recall any phone contact that week  
19 between yourself and Pastor Olson of any type, correct?

20 A No.

21 Q Right?

22 A Yes.

23 Q Just be specific, page 46. "Question: Did she  
24 mention to you when you got up, 'referring to Wednesday,'

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C05321

AB017981

APPENDIX 001197

1 that Pastor Olson had called about the rehearsal? Answer:  
2 I believe so, yes. Question: I ask you to be as sure as  
3 you can. You believe so or you're sure? Answer: Yes, I'm  
4 sure. Question: What did she tell you? Answer: She told  
5 me that he called. I mean, that we had rehearsal. He was  
6 just reminding me that I had rehearsal that night.  
7 Question: You already knew that? Answer: I knew that,  
8 yes. Question: Sunday it was set up, right? Answer: Yes.  
9 Question: Then did you actually see Pastor Olson after the  
10 ice cream social? Answer: Yes. And you practiced with  
11 him? Answer: Yes. Question: He had talked with your  
12 mother, but that was your first contact with him since  
13 Sunday at church? Answer: Right." Remember those  
14 questions and answers?  
15 A Yes, I do.  
16 Q And then do you remember these questions and  
17 answers involving one of the members of the grand jury?  
18 Question from the grand jury: "From the time that you got  
19 home did you have occasion to see anybody, talk to anybody?  
20 Answer: No, I went to sleep right when I got home. I was  
21 tired. Question: You went to sleep after you came back  
22 from the bank? Answer: Right. Question: You didn't set  
23 up any confirmation with Mr. Olson? Answer: I just knew  
24 that I was supposed to be there that night for the ice cream

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C05322

AB017982

APPENDIX 001198

1 social, so -- Question: Did you get any phone calls at all  
2 that day? Answer: Not me personally." Do you recall those  
3 questions and answers?

4 A Yes, I do.

5 Q You're now indicating that while you don't have  
6 any recollection of the phone calls, it's entirely possible  
7 you made them?

8 A Yes.

9 Q And why, why is that?

10 A Because I would have been home in and about that  
11 time. There's no reason for anybody else that would have  
12 been in my house to call the church from the house at that  
13 time, and I could see it's conceivable my getting home,  
14 thinking, oh, Mitch is going to call me and wake me up if I  
15 don't call him now. So it is entirely possible that I did  
16 try to get ahold of him that morning. However, I have no  
17 direct recollection, nor direct knowledge, of specifically  
18 making any phone calls.

19 Q Nor do you have any recollection, do you, of an  
20 incoming call to your residence of one minute at 10:22 that  
21 morning from the Christ United Methodist Church?

22 A I don't recall that, no.

23 Q That's not in your memory bank either, right?

24 A No.

1875

C05323

AB017983

APPENDIX 001199

1 Q Now the trip from Bell Federal to your home takes  
2 a little over half an hour, doesn't it?

3 A Approximately.

4 Q And you're now indicating that the route that you  
5 took from --

6 MR. BEU: Objection to the word now, it's an  
7 argumentative question.

8 THE COURT: Objection will be sustained. I'm not sure  
9 where, when you're referring to --

10 Q (By Mr. Souk) In your testimony here, in this  
11 courtroom yesterday, you're indicating that the route that  
12 you took was the bypass route, right?

13 A Correct.

14 Q Not through the center of Rockford --

15 A Correct.

16 Q -- right? And previously to Mr. Pickett, when you  
17 drove those routes with him on September 1st and 2nd of  
18 1994, you told him you went the bypass route, correct?

19 A That is correct.

20 Q And when I asked you about it in grand jury,  
21 that's not what you told me, was it?

22 A What did you ask me?

23 Q Well, did you tell me you went the bypass route?

24 A I don't recall.

1876

C05324

AB017984

APPENDIX 001200

1 Q Do you recall these questions and answers -- page  
2 44, counsel -- "Question: About how long does it take you  
3 to get home from Sandy Hollow store? Answer: Sandy Hollow,  
4 about half an hour roughly. Question: How long does it  
5 take you to get to the bank from your home? Answer: Little  
6 over the same. Question: Little over half an hour?  
7 Answer: Well, little -- yeah. Roughly, I mean anywhere on  
8 the east side of town is a half hour. And it's kind of in  
9 the east, or east central part of town? Answer: Yes.  
10 Question: The bank? Answer: Yes. Question: Where do you  
11 bank? Answer: Bell Federal Savings & Loan. Question:  
12 When you go there or to your friends that you mentioned that  
13 live on the east side of town, do you go through Rockford?  
14 Answer: Yes. Question: That's your normal route of  
15 travel? Answer: Yeah." Remember those questions and  
16 answers?

17 A Yes, I do.

18 Q So you told me you went through Rockford to get to  
19 your bank, didn't you?

20 A No, I did not. I was responding to a double  
21 question.

22 Q So it was, it was --

23 A I drove through Rockford to see my friends. I  
24 drive around Rockford to go to somewhere specific on the

1877

C05325

AB017985

APPENDIX 001201

1 east side.

2 Q Okay. So that was kind of a tricky, confusing,  
3 question that I asked you?

4 A Yes, it was.

5 Q You didn't ask me to repeat it or rephrase it  
6 though, did you?

7 A I was answering your questions to the best of my  
8 ability.

9 Q Well, if you were confused, why didn't you ask me  
10 to rephrase?

11 A I was not confused. I imagine I was answering the  
12 second half of the question.

13 Q Didn't ask Mr. Beu for any consultation at that  
14 point, did you?

15 A No, I did not.

16 Q Then, immediately after that, I asked you these  
17 questions, and you gave these answers, right: "Question:  
18 There's sort of a beltway, you might call it, that kind of  
19 goes around Rockford, part of it? Answer: The bypass.  
20 Question: The bypass, what's that called? Answer: Route  
21 20. Question: You use that -- Answer: To get to the Sandy  
22 Hollow store, because it's on 11th Street right behind the  
23 bypass. Question: When you go from your home to  
24 Bloomington/Normal, that would be the best way to use the

1878

C05326

AB017986

APPENDIX 001202

1 bypass, right? Answer: Route 20 to 39, yes. Question: It  
2 just kind of swings around to the south and up to the north,  
3 and then you got on another road, Meridian Road, that goes  
4 north up to where you live in the northwest part of Rockford  
5 area, right? Answer: Right. Question: Where is Bell  
6 Federal located as far as Route 20? Answer: Route 20 goes  
7 along the south side of Rockford, and Bell Federal is  
8 central east. I mean it comes off -- it's off of Alpine  
9 Road. Question: Alpine Road run down into 20? Answer:  
10 It runs down to 20, yes. Question: How far is it from Bell  
11 Federal down to 20? Answer: It's about, I don't know, four  
12 to five miles, something like that." Remember those  
13 questions and answers?

14 A Yes, I do.

15 Q Those questions and answers, you didn't say  
16 anything about going from Bell Federal to home by the  
17 bypass, did you?

18 A I was not asked anything about going from Bell  
19 Federal to home by the bypass.

20 MR. SOUK: May we approach, your Honor?

21 THE COURT: You may.

22  
23 (WHEREUPON A DISCUSSION WAS HAD AT THE  
24 BENCH OFF THE RECORD.)

1879

005327

AB017987

APPENDIX 001203

1 knowledge, that they were coming down on the hardest from  
2 what you saw?

3 A As far as I knew.

4 Q They'd come down on you and accused you the same  
5 evening that they found the body?

6 A That is correct.

7 Q They told you all through August -- I mean October  
8 and November that you were the one that was going to be  
9 arrested?

10 A Yes.

11 Q Had part of your conversations with your counsel  
12 during that time been in the area of the legal concept of  
13 presumption of innocence?

14 A Yes.

15 Q Some questions earlier about the length of time  
16 for your drive between home and Bell Federal and back. Do  
17 you recall that?

18 A Yes.

19 Q And the length of questioning about that,  
20 according to the bank -- pardon me, the phone records, there  
21 was a phone call initiated, but apparently not answered from  
22 your apartment or your home at about 10:37 that morning.  
23 According to the bank video tape, you left there at around  
24 10:11. That's about 26 minutes roughly?

1939

C05328

AB017988

APPENDIX 001204

- 1 A Roughly.
- 2 Q In your manner of speaking is 26 minutes about  
3 half an hour?
- 4 A That's about half an hour, yes.
- 5 Q Would 25 minutes be about half an hour?
- 6 A Yes, it would be.
- 7 Q How far would you have to be off half an hour,  
8 Alan, before you thought it was not about half an hour?
- 9 A I would say 20 minutes.
- 10 Q If you were to give your best estimate as to  
11 comparing the difference in driving the bypass/Meridian  
12 route between your place and the bank as opposed to coming  
13 through the heart of downtown Rockford as Detective  
14 Freesmeyer has inferred in his map diagram, what would be  
15 the approximate difference?
- 16 A About ten minutes.
- 17 Q Does that depend on the time of day?
- 18 A Yes, it would depend on the time of day and  
19 traffic conditions in Rockford.
- 20 Q And we're talking sometime in the vicinity of  
21 prior to 11 minutes after ten in the morning, right?
- 22 A Correct.
- 23 Q On a week day?
- 24 A Correct.

1940

C05329

AB017989

APPENDIX 001205

1 Q To the best of your knowledge, Alan, prior to your  
2 arrest, had you or anyone on your behalf actually  
3 commissioned anyone to go out and run formal mileage checks  
4 on your itinerary for that week?

5 A No.

6 Q Had it basically been decided that knowing what  
7 you knew at the time, just to sit tight, because it was  
8 going to blow over?

9 A Yes.

10 Q After you were arrested, is that mileage check  
11 that was done by Loyale Slaughter while you were in custody,  
12 was that -- that's the first one that was done, correct?

13 A Yes.

14 Q By the time that you went around with Verne  
15 Pickett and did the mileage that's been presented here, had  
16 you had the opportunity to speak with each of the people  
17 that you'd been able to recall by going back through your  
18 records and confirm the various places that you had, in  
19 fact, been during the stages of that week?

20 A Yes, to some extent.

21 Q It's true, is it not, in the grand jury testimony  
22 that it was Mr. Souk who made the reference to Michael  
23 Swaine's things --

24 A Yes, it was Mr. Souk.

1941

C05330

AB017990

APPENDIX 001206

1 THE COURT: All right, we're going to recess this  
2 hearing now until approximately 1:30 this afternoon. If the  
3 bailiffs would take charge of the jury, return them to the  
4 jury deliberation room. The witness may step down. Leave  
5 your books where they are please, and they'll be secured  
6 over the noon hour.

7  
8 (WHEREUPON THE JURY EXITED THE COURTROOM  
9 AND THE FOLLOWING WAS HAD:)

10  
11 THE COURT: All right, the jury is now outside of the  
12 courtroom. We will be in recess until 1:30.

13  
14 (WHEREUPON THE NOON RECESS WAS HAD.)

15  
16 THE COURT: Okay, back on the record in 94-CF-476.  
17 Counsel and the defendant return to open court. Jury is  
18 presently outside of the courtroom.

19 Mr. Beaman, if you would resume the witness stand  
20 please before the jury comes back in.

21 MR. BEAMAN: Yes, sir.

22 MR. BEU: Also, judge, just one procedural thing, a  
23 return of service to file on the witness from yesterday.

24 THE COURT: All right, that will be filed. Thank you.

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C05331

AB017991

APPENDIX 001207

1 All right, are counsel ready to proceed now?

2 MR. SOUK: Yes, your Honor.

3 MR. BEU: Yes, your Honor.

4 THE COURT: All right, call the jury back in.

5

6 (WHEREUPON THE JURY ENTERED THE COURTROOM

7 AND THE FOLLOWING WAS HAD:)

8

9 THE COURT: All right, for the record, the jury has now  
10 returned to the courtroom. Mr. Souk, you may continue your  
11 examination.

12 MR. SOUK: Thank you, your Honor.

13 Q (By Mr. Souk) Mr. Beaman, before we return to the  
14 topic of the odometer, one last question about the bank  
15 issue. When you testified at grand jury, after I gave you  
16 the memo which reflected Mr. Beu's inquiry and you had a  
17 chance to look at that and examine it, I asked you the  
18 following question, didn't I, "Question: If you just forgot  
19 about the bank, could you offer the ladies and gentlemen of  
20 the grand jury an explanation of why your attorney was  
21 seeking to confirm your presence at the bank on September  
22 the 3rd of 1993?" Remember that question?

23 A Yes.

24 Q And you gave this answer, didn't you, "I don't

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C05332

AB017992

APPENDIX 001208

1 know, mmm, perhaps that was when I remembered it then, I  
2 don't know. It's been a great long time. It's been a  
3 year."?

4 A Yes.

5 Q You gave that answer?

6 A Yes, I did.

7 Q Now the Ford Escort vehicle, of course, has been  
8 discussed extensively already, and that was the car you were  
9 driving from the summer of '93 basically until May of -- I'm  
10 sorry, the summer of '92 until May of '94, correct?

11 A Correct.

12 Q Prior to the summer of '92, you hadn't had a car  
13 down in school?

14 A No, I had not.

15 Q The car from that point, from either late May or  
16 early June of 1992, was your full-time vehicle?

17 A Yes.

18 Q All right. You drove it both down here at school,  
19 correct?

20 A Yes.

21 Q And trips back and forth to home?

22 A Correct.

23 Q And when you were home it was your car to use  
24 there, too, right?

1882

C05333

AB017993

APPENDIX 001209

1 A Yes.

2 Q Part of the Sears trip had been, you took your  
3 mother shopping, and one of the things you got was the tape  
4 deck, right?

5 A Right.

6 Q You went home that night and started putting it  
7 in?

8 A Yes.

9 Q And I didn't understand this part of your  
10 testimony yesterday, and I want to ask you to clarify it. I  
11 thought you said something about the tape deck having ended  
12 up under a seat?

13 A Yes.

14 Q Is that what you said?

15 A Yes.

16 Q Did you -- did you mean that after you put it in  
17 that you installed it in such a way that it was working, but  
18 it was under your seat?

19 A That is correct.

20 Q You couldn't get it to fit in the --

21 A It was too small to fit into the clips that are in  
22 the -- 'cause when I took the original stereo out that was  
23 much larger than just the little tape deck I put in there,  
24 and it didn't have a radio on it.

1883

**C05334**

AB017994

APPENDIX 001210

1 Q But you did get it working?

2 A Yes, I did.

3 Q That Tuesday night or --

4 A No, it wasn't fully working until Saturday  
5 actually.

6 Q Actually you were working on it quite a bit that  
7 week?

8 A Yes.

9 Q And --

10 A Well, over a period of time, yes.

11 Q And even Saturday night before you went out and  
12 you were stopped by the police, you were out in your  
13 driveway working on it some more then, correct?

14 A Correct.

15 Q Is that when you finally got it hooked up?

16 A Yes.

17 Q So it took quite a bit of work?

18 A Yes, it did.

19 Q And what was the problem? Did you have to trace  
20 some leads over some wiring or something?

21 A The directions inside the box for the tape deck  
22 gave me specific instructions to run the power lead to the  
23 fuse box, but it doesn't fit that way on my car, so I had to  
24 find a different way. And finally I just gave up and ran it

1884

C05335

AB017995

APPENDIX 001211

1 directly to the power for the original stereo and decided  
2 not to put the original stereo back in.

3 Q Okay. So you had been -- your plans were to do a  
4 tape deck along with the original stereo?

5 A Correct.

6 Q So you changed those plans and then just hooked up  
7 the tape deck and --

8 A Yes.

9 Q -- put it under the seat?

10 A I jury rigged it.

11 Q The fuse box that you're talking about, where is  
12 that located?

13 A That's located on, I believe, the left side  
14 underneath the steering column.

15 Q Is that like little fuses that are part of the  
16 electrical system just like in your house?

17 A It's just a little white box that's got little pin  
18 fuses that slip in there. They're really small.

19 Q And those are fuses that might blow if you have  
20 like an overload in the system somewhere?

21 A Correct, yeah.

22 Q And you can change them just like you change a  
23 fuse in your fuse box at home?

24 A Yes.

1885

C05336

AB017996

APPENDIX 001212

1 Q So some of the wiring had to go to there, or you  
2 thought it had to go to there?

3 A Well, it was supposed to, but I couldn't find a  
4 way to get that to work.

5 Q And how many hours do you think you had to work on  
6 that altogether to make it work?

7 A A total of four maybe, just 'cause I didn't know  
8 what I was doing.

9 Q Now you never have had any problems with your  
10 speedometer or odometer?

11 A No, I don't.

12 Q Never worked on it yourself?

13 A No, I have not.

14 Q You don't know anything about speedometers or  
15 odometers?

16 A Well, I did learn through proceedings of this  
17 trial something about speedometers and odometers.

18 Q I understand you didn't know anything then?

19 A No, I didn't.

20 Q Didn't know how to unhook or hook up the cable, I  
21 take it?

22 A No.

23 Q And the best of your knowledge it's always worked  
24 properly, both the speedometer and the odometer?

1886

C05337

AB017997

1 A Yes.

2 Q Now when that evidence was discovered, like your  
3 parents, you believed that was evidence that would clear  
4 you, didn't you?

5 A Yes.

6 Q And it would be true that not only did your mom  
7 and dad not disclose that evidence to the police until May  
8 the 18th, you didn't disclose it to the police either, did  
9 you?

10 A That is true.

11 Q And, of course, the reason that that would clear  
12 you is because you drove too many miles within the City of  
13 Rockford to both do that and make a trip to Bloomington and  
14 back, right?

15 A That's is correct.

16 Q And you obviously -- we've had a lot of testimony  
17 about mileage and that sort of thing. You're familiar with  
18 all that, right?

19 A Correct.

20 Q And obviously at various times in your statements  
21 to police you told them various places that you went, right?

22 A Correct.

23 Q And you did with Mr. Pickett go last September 1st  
24 and 2nd, drive around, and do what he testified was done,

1887

C05338

AB017998

APPENDIX 001214

1 and those mileages were measured, right?

2 A That is correct.

3 Q Do you remember the testimony -- I think there's  
4 an exhibit somewhere about Mr. Slaughter doing some prior  
5 mileage checking?

6 A Yes.

7 Q Okay. Do you need to see that exhibit, or have  
8 you seen it before?

9 A I don't know if I've seen it before.

10 Q People's Exhibit 87?

11 A It's possible.

12 Q Do you recognize that?

13 A Yes.

14 Q How do you recognize it?

15 A I believe it was part of discovery.

16 Q Part of whose discovery?

17 A Part of our discovery I imagine, I don't know.

18 Q Well, it's prepared by your investigator, right?

19 A Yes, but it is a People's Exhibit, so I imagine  
20 you had it.

21 Q Okay. Do you know Mr. Slaughter?

22 A No, I do not.

23 Q Did you ever talk with him or provide information  
24 to him indirectly so that he knew where to drive to do his

1888

C05339

AB017999

APPENDIX 001215

1 mileage checks?

2 A No, I did not.

3 Q Did you know that he was doing some mileage  
4 checks?

5 A I was aware that he was doing mileage checks, yes.

6 Q Okay. And were you, like your mother, made aware  
7 at some point, of some figure of perhaps 250, 280 miles,  
8 some figure like that?

9 A It's possible.

10 Q Do you know where Mr. Slaughter got his  
11 information to make his mileage check?

12 A I imagine from my counsel. I don't know.

13 Q Now when you went out with Mr. Pickett on  
14 September the 1st and 2nd, everyplace that he went was a  
15 place that you directed him, right?

16 A That is correct.

17 Q This was not a situation where he already had a  
18 written report or written direction from you? It was your  
19 setting in the passenger seat and his driving, and your  
20 telling him where to go?

21 A Correct.

22 Q And at this point in time did you have with  
23 yourself -- with you, yourself, at that time, any notes that  
24 you were using to direct you?

1889

C05340

1 A I wouldn't need that.

2 Q You had a clear memory of where you'd been that  
3 week and the way you got there and back, right?

4 A I have a clear memory of the way I drive through  
5 Rockford, yes.

6 Q Okay. So some of these places, maybe most of  
7 them, were places that you had a regular routine of how you  
8 went?

9 A Yes.

10 Q So when you were giving him directions, were you  
11 giving him the routine that you usually followed, or your  
12 independent recollection of the week of August 23rd?

13 A I would say it would be both. My independent  
14 recollection is that I would have no reason to be driving  
15 any other way than that which is my routine.

16 Q Now that day you -- one of the places you directed  
17 him to go was to Shannon Wallenberg's home?

18 A That is correct.

19 Q You'd never mentioned her name in any statement  
20 that you gave to police before, did you?

21 A I'm not certain.

22 Q You told him that you'd gone to your uncle's on  
23 Thursday and Friday both, right?

24 A Correct.

1890

C05341

AB018001

APPENDIX 001217

1 Q And, in fact, said that at the grand jury also,  
2 didn't you?

3 A Yes.

4 Q To Detective Daniels, you told him you went there  
5 on Thursday, but you didn't say anything about Friday, did  
6 you?

7 A I don't know, apparently not.

8 Q And on October 12th when you filled out People's  
9 Exhibit 44 you didn't mention your uncle's at all, did you?

10 A I don't recall seeing that on there, no.

11 Q You want to look at it again?

12 A That's not necessary.

13 Q The Broadway IGA that's mentioned, you went over  
14 there you say to pick up sealant and --

15 A Sealant?

16 Q For the driveway?

17 A Oh, sealant. No, actually I picked up the crack  
18 filler and the tools that I needed to put the sealant on,  
19 but I had to buy the sealant at Farm & Fleet.

20 Q Before Mr. Pickett, had you mentioned that trip to  
21 Broadway IGA to anybody?

22 A I don't recall.

23 Q And we've already talked about your testimony at  
24 grand jury regarding which way you got from the bank and

1891

C05342

AB018002

APPENDIX 001218

- 1 back, correct?
- 2 A Correct.
- 3 Q And you, of course, told Mr. Pickett in September
- 4 that you drove the bypass and Meridian, correct?
- 5 A Correct.
- 6 Q And although apparently you didn't provide the
- 7 information, it would appear that Mr. Slaughter in measuring
- 8 that distance also measured the Beaman residence to Bell
- 9 Federal by the bypass/Meridian route, too, correct?
- 10 A Route 20, yes.
- 11 Q And you're assuming he got his information from
- 12 your attorney, but you're not quite certain?
- 13 A I have no idea. I've never even met the man.
- 14 Q The route going from the bank to your home by the
- 15 bypass, that adds about six miles to the trip each way,
- 16 doesn't it?
- 17 A Roughly, yes.
- 18 Q So the round trip would add 12 miles to your
- 19 mileage just by going that way, wouldn't it?
- 20 A Sure.
- 21 Q Now when that odometer evidence was discovered,
- 22 you were around the house, right?
- 23 A I believe so, yes.
- 24 Q It was your mother who discovered it, right?

1892

C05343

AB018003

APPENDIX 001219

1 A That is correct.

2 Q And who was it that recovered the receipt out of  
3 the car?

4 A I'm not certain. It could have been me. It could  
5 have been my mother. I remember her getting excited about  
6 something --

7 Q And --

8 A -- and saying that she had figured it out.

9 Q Maybe it was you she sent out to the car?

10 A It's possible.

11 Q So in any event, you knew about it basically  
12 immediately upon its discovery on August the 30th, right?

13 A Yes, I was in the vicinity.

14 Q All right. Were you there on that day when she  
15 found the Sears receipt and looked at it, and looked at the  
16 odometer, and wrote on the back of the Sears receipt the  
17 mileage that basically showed 322 miles elapsed?

18 A I was not present when she wrote the mileage down,  
19 nor was I present when the photograph was taken. In fact, I  
20 had not been aware that a photograph had been taken.

21 Q But, at that point on Monday, they'd had you stop  
22 driving your car Sunday, right?

23 A Yes.

24 Q Then on Monday you met with Mr. Beu, and that's

1893

C05344

AB018004

APPENDIX 001220

1 when everybody sits down to recall the prior week, right?

2 A Correct.

3 Q And it's in that process as your mother and father  
4 are talking about this that they remember about Sears, or  
5 your mother remembers. That's when you go get the Sears  
6 receipt, right?

7 A What was that again?

8 Q As your mother and father are talking and making  
9 notes, that's when your mother remembers on Monday, the  
10 30th, right?

11 A I believe so.

12 Q And you were somewhere else in the house?

13 A I was, yes, around the house.

14 Q Were you making your own notes, or doing something  
15 else?

16 A I had been making my own notes during that time.  
17 I don't know if it was the exact same time that my parents  
18 were or not.

19 Q So at that point in time she either goes out, or  
20 she sends you out to get the receipt, because it's in the  
21 glove compartment of your car, right?

22 A As far as I know, yes.

23 Q Did you go -- did you look at the odometer  
24 yourself?

1894

C05345

AB018005

APPENDIX 001221

1 A I'm not certain.  
2 Q Somebody told you the mileage, though?  
3 A Somewhere along the line.  
4 Q Well, presumably somebody had to tell you that  
5 there's a little over 300 miles driven so that you could  
6 tell them how many miles you had driven during the week,  
7 right?  
8 A Correct.  
9 Q Somebody had to have some input from you, didn't  
10 they?  
11 A I suppose, yes.  
12 Q Well, you were the guy driving around your car  
13 that week, right?  
14 A Yes.  
15 Q So nobody is going to know, just like Mr. Pickett,  
16 nobody is going to know the mileage unless you told them  
17 where you drove, right?  
18 A That is true.  
19 Q And presumably you did that --  
20 A Yes.  
21 Q -- on Monday, the 30th, right?  
22 A I don't know. I can't recall a specific date or  
23 the specifics about that.  
24 Q Well, let's phrase it another way. Without

1895

C05346

AB018006

APPENDIX 001222

1 recalling specifically what you told your mother and father  
2 about where you had driven, would it be fair to say that you  
3 at least communicated with them to the extent that they knew  
4 that you had driven too many miles to have made a trip to  
5 Bloomington/Normal and back, plus the mileage you drove in  
6 Rockford, right?

7 A I don't know if I did communicate that or not.  
8 That's what I've been trying to say here.

9 Q Well, how would any of you know that it was  
10 evidence that cleared you unless somebody had some idea  
11 where you drove that week?

12 A Well, they knew that I was going to work that  
13 week. They knew that I was going out on the town that week.  
14 They saw my car when they got home every day, and they knew  
15 that I was in my car.

16 Q So they perhaps were just making assumptions  
17 knowing all that?

18 A That is possible.

19 Q However they got the information, they got excited  
20 about it, right?

21 A That is correct.

22 Q Both of them, or just your mom?

23 A I don't know. What I recall is my mom being  
24 excited about the receipt, remembering, oh yeah, that's what

1896

C05347

AB018007

APPENDIX 001223

1 we did.

2 Q Then after somebody looked at the receipt and  
3 mileage they were even more excited because it cleared you?

4 A I believe so, yes.

5 Q Were you excited about it?

6 A Yes.

7 Q And that's all known on August -- Monday, August  
8 30th, right?

9 A As far as I know. I --

10 Q You said you weren't there when the photo was  
11 taken. I take it you knew about the photo at some point in  
12 time?

13 A I was not aware of the photo until later on. I  
14 don't know exactly when. A lot of that going on there was  
15 my parents trying to make sure for themselves, so --

16 Q Make sure of what for themselves?

17 A Well, somebody gets accused of something you tend  
18 to wonder whether or not it's true, and you tend to want to  
19 know whether or not it's true. And I imagine they did some  
20 investigation on their own.

21 Q Okay. It wasn't a big issue to you?

22 A I knew I didn't do it, so there's not much for me  
23 to worry about, is there?

24 Q Well, you just -- the day before, early morning of

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AB018008

APPENDIX 001224

1 Sunday, been in this very accusatory interview with  
2 Detective Daniels, and you knew that you were in her  
3 parents' eyes the number one suspect, right?

4 A That is correct.

5 Q And you knew you were innocent, right?

6 A That is correct.

7 Q You weren't worried about being wrongly accused  
8 and falsely arrested?

9 A Certainly.

10 Q So you were working with your parents, weren't  
11 you, about developing this evidence, weren't you?

12 A Working on my own.

13 Q When did you know the picture had been taken?

14 A I don't recall.

15 Q Now certainly by whatever you communicated with  
16 your parents, and whenever you communicated, by November 5th  
17 when you had a conversation with Detective Freesmeyer you  
18 knew then about the odometer evidence, right?

19 A I don't know if I even knew about the photograph  
20 at that point.

21 Q Not the photograph --

22 A The odom -- the receipt, yes, I knew about the  
23 receipt.

24 Q The receipt that your mother and father had looked

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APPENDIX 001225

1 at the odometer and seen how many miles had elapsed?

2 A Yes.

3 Q As of Monday, the 30th?

4 A That is correct.

5 Q And you knew it was a little bit -- maybe you  
6 didn't know the exact figure, but you knew it was a little  
7 over 300?

8 A That is correct.

9 Q And you knew, therefore, from what you had driven,  
10 this was evidence that cleared you because you couldn't have  
11 driven down here and back?

12 A I suppose.

13 Q And on that date you had a conversation with  
14 Detective Freesmeyer about that, didn't you?

15 A Yes.

16 Q And I ask you if you recall these questions and  
17 answers: "Detective Freesmeyer: What about your car, is  
18 there any way that we could say that your car wasn't here?"  
19 Your answer, "Well, I got new tires Tuesday night, got the  
20 receipt from that." Freesmeyer, "Okay." You say, "You can  
21 try looking at mileage. I have driven a lot of miles since  
22 then. I don't know, but --" Do you remember those  
23 questions and answers?

24 A Yes, I do.

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APPENDIX 001226

1 Q So you told Freesmeyer about the tires, and you  
2 told him about the Sears receipt, didn't you?

3 A Yes, I did.

4 Q But you didn't tell him you had evidence of how  
5 many miles you'd driven that would clear you, did you?

6 A I had no knowledge of any evidence that was  
7 specifically presenting the number of miles I had driven.

8 Q I thought you just said that you knew even when it  
9 happened in August that your mother was --

10 A I was aware of how many miles I had driven, but  
11 that does not mean that I can show that to lieutenant -- to  
12 Sgt. Freesmeyer.

13 Q I guess you're losing me, Mr. Beaman.

14 A You've lost me a long time ago.

15 Q You didn't know about the photograph. Is that  
16 what you're saying?

17 A That is true. I would have told him about it if I  
18 had known it at that time.

19 Q Calling your attention to the grand jury testimony  
20 again, "Question: I take it you had a chance then and since  
21 then to see the notes that your mother made? Answer: Yes.  
22 Question: Who takes that picture?" Your answer, "My  
23 mother, I believe. Question: Do you recall when that was  
24 taken? Answer: That was taken sometime between Saturday

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AB018011

APPENDIX 001227

1 and Monday, or maybe on Monday. I didn't deal with it  
2 directly. It was something she was doing. Question: But  
3 you knew it was taken? Answer: Yes. Question: And you  
4 knew what the mileage showed on your odometer, right?  
5 Answer: Not the specific number. I mean I don't -- I know  
6 that it was approximately 300 miles had been driven."  
7 Remember those questions and answers?

8 A Yes, I do.

9 Q So you did know the photograph was taken, didn't  
10 you?

11 A Not at that time that I talked to --

12 MR. BEU: I'm going to object, it did not indicate  
13 anything about when.

14 THE COURT: I'm going to allow the objection. It will  
15 be sustained.

16 Q (By Mr. Souk) When did you know the photograph  
17 was taken?

18 A Sometime prior to the grand jury obviously.

19 Q So your parents had this photograph of the  
20 odometer all year long, and you're the number one prime  
21 suspect in the murder case, and they didn't tell you about  
22 it?

23 A I didn't deal directly with counsel. I was down  
24 here, they were up there.

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APPENDIX 001228

1 Q Well, when you talked with Detective Freesmeyer on  
2 November the 5th, even if you didn't know there was a  
3 photograph, you knew your parents had looked at the odometer  
4 and were witnesses as to what it said on Monday, August the  
5 30th, didn't you?

6 A They had had several opportunities to talk to my  
7 parents.

8 MR. SOUK: Your Honor, would the court direct the  
9 witness to answer the question?

10 THE COURT: Would you please answer the question that  
11 was put to you by Mr. Souk?

12 A Could I have that read back?

13  
14 (WHEREUPON THE LAST QUESTION WAS READ  
15 BACK BY THE REPORTER.)

16  
17 A Yes.

18 Q (By Mr. Souk) And you didn't tell him that, did  
19 you?

20 A No.

21 Q Why not?

22 A I don't know. Didn't specifically come to mind, I  
23 guess. I told him about the receipt.

24 Q The receipt came to mind, but not the fact that

1 you had some witnesses who could verify how many miles you'd  
2 driven?

3 A I don't know how all this stuff works, that's why  
4 I have a lawyer.

5 Q Now when I asked you about this topic in grand  
6 jury -- well, let me -- so we're not mistaken, I'll read you  
7 the questions and answers. Do you recall these at the grand  
8 jury, "Question: During any of those conversations you  
9 never mentioned to him, did you, that you had the Sears  
10 receipt along with the picture of the odometer, did you?  
11 I did mention that to him. I did not have them in my hands  
12 to show them to him. It was with my parents. Question: I  
13 mentioned two things there. I don't want to confuse you.  
14 What exactly was it that you told him? Answer: I told him  
15 about the receipt showing mileage. Question: Did you tell  
16 him about how many miles you'd driven and the picture on the  
17 odometer? Answer: Yes. I don't know if I told him about  
18 the picture or not, but I told him about how many miles I'd  
19 driven. Question: You sure? Answer: Yeah. Question:  
20 Positive? Answer: I told him, look at my mileage. Look at  
21 the receipt. I did not have the receipt to show him.  
22 Question: That was -- you think that might have been  
23 November 5th when you talked with him? Answer: That was  
24 whichever one he came to the theater to find me. It was

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APPENDIX 001230

1 during tech week of the show I was doing, so that would have  
2 been in the fall." Do you remember those questions and  
3 those answers?

4 A Yes, I do.

5 Q So when I initially asked you about it in grand  
6 jury, you told me that you had told him about the 300 plus  
7 miles, correct?

8 A I guess.

9 Q And then immediately following that were these  
10 questions and answers. Page 70, counsel. "Question: You  
11 remember on November the 5th, Mr. Beaman, Detective  
12 Freesmeyer asking you, "What about your car, is there anyway  
13 that we could say that your car wasn't here?" And you  
14 giving him the answer "Well, I got new tires Tuesday night.  
15 Got the receipt from that." He says, "Okay." You say, "You  
16 can try looking at mileage. I've driven a lot of miles  
17 since then. I don't know, but -- you remember that  
18 conversation?" Your answer --

19 A Yes.

20 Q That's -- I'm reading.

21 A Sorry.

22 Q Your answer, "Yes. Question: So you didn't tell  
23 him anything about 300 miles, did you?" Your answer, "I  
24 guess not. That was a long time ago. Question: You didn't

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APPENDIX 001231

1 mention that your parents had a picture of your odometer  
2 that could prove the mileage, did you? Answer: No.  
3 Why not? I don't know. I guess I was pretty much in  
4 contempt of his investigation because I knew I didn't do  
5 it." Remember those questions and answers as --

6 A Yes, I do.

7 Q So initially when I asked you, you lied, didn't  
8 you?

9 A I'm not aware of any lie.

10 Q You initially told me that you had told Freesmeyer  
11 about the 300 miles driven, didn't you?

12 A I suppose I said that, but I was not in any way,  
13 shape, or form attempting to lie to you or to the grand  
14 jury.

15 Q And right after you said that, as much as I'm  
16 doing here today, I pulled out a piece of paper or something  
17 like this, didn't I, a transcript, and then when I asked  
18 this question about what the conversation had been, you saw  
19 that I was reading from a transcript, didn't you?

20 A I suppose.

21 Q That was the first time that you had any knowledge  
22 or inkling that there might be some tape recording of some  
23 of your conversations with Detective Freesmeyer, wasn't it?

24 A It wouldn't have surprised me.

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APPENDIX 001232

1 Q But that's the first time you knew, when I started  
2 reading, wasn't it?

3 A I suppose.

4 Q And then you immediately changed your answer,  
5 didn't you?

6 A I think you might want to reread that statement  
7 and see how those occurrences of quote/unquote changing my  
8 answer happened.

9 Q And the finish of our conversation at grand jury  
10 was as follows, "Question: But you knew from Sunday or  
11 Monday, the 29th and 30th of August, that you and your  
12 parents had in your possession odometer evidence that would  
13 clear you, and you didn't tell Detective Freesmeyer about  
14 that? Answer: I suppose I didn't remember it or think  
15 about it. Question: You didn't remember it or think about  
16 it? Answer: It was tech week. Question: Well, in that  
17 conversation you remembered the Sears receipt, didn't you?  
18 Answer: That was an obvious factor. That's something my  
19 mom had me get out of the car. I was not present when the  
20 picture was taken. Question: But you knew there was a  
21 picture, didn't you? Answer: As far as I know, I knew  
22 there was a picture, yes. Question: You knew that there  
23 was exact mileage that your parents could show, right?  
24 Answer: Uh-huh. Question: You have to answer out loud.

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APPENDIX 001233

1 Answer: Yes. Question: You knew your mother had even  
2 written it down -- Answer: Yes. -- on the back of a Sears  
3 receipt, right? Uh-huh. Question: And during these fall  
4 conversations, starting with October 27th, you've indicated  
5 before that's the first time that Detective Freesmeyer told  
6 you when the murder occurred, when your alibi had a problem  
7 and that you would be arrested, right? Answer: Yes."

8 Remember all those questions and answers?

9 A Yes, I do.

10 Q Now as a matter of fact you, of course, knew about  
11 the odometer evidence long before your parents, didn't you?

12 A No.

13 Q Well, why don't you tell us about Mr.  
14 Vanberringer.

15 A What would you like me to tell you about Mr.  
16 Vanberringer?

17 Q Did you talk to him in the early morning hours of  
18 Sunday, August the 29th?

19 A Yes, I did.

20 Q You didn't tell him that you already knew about  
21 the Sears receipt and the odometer reading, and that you'd  
22 driven a little over 300 miles?

23 A I don't believe I told him that then, no.

24 Q He's either lying or mistaken?

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1 A Yes, probably mistaken.

2 MR. SOUK: May I have just a moment, your Honor?

3 THE COURT: You may.

4

5 (WHEREUPON A BRIEF INTERRUPTION WAS HAD.)

6

7 MR. SOUK: I'm going to need the lights off for just a  
8 moment, your Honor.

9 THE COURT: All right, you need it right now?

10 MR. SOUK: Yes, please.

11 Q (By Mr. Souk) Now, Mr. Beaman, there has been  
12 some testimony by you and some other evidence regarding what  
13 you said in the grand jury about whether you knew Mr. Swaine  
14 had moved in when you visited Jennifer on August the 4th.  
15 Do you remember that?

16 A Yes, I do.

17 Q And you have now testified yesterday that when you  
18 were responding to those questions that what you had seen  
19 there was a Swaine sign, correct?

20 A That is correct.

21 Q And apparently that you had gone over to the  
22 apartment on East Street. You saw him there, right?

23 A That is correct.

24 Q You saw things there. I don't want to put words

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APPENDIX 001235

1 in your mouth. Did you say they were boxed up or looked  
2 like people were moving?

3 A It just didn't look lived in.

4 Q Well, you knew Swaine was the only one still  
5 there, right?

6 A As far as I could tell, yes.

7 Q The other roommates had already left. You knew  
8 that, didn't you?

9 A Yes.

10 Q You saw him there at the apartment?

11 A Yes, he showed up in Jennifer's car.

12 Q Now just so that we're clear, the photograph is  
13 number, People's Exhibit No. 12-H, and the slide is Exhibit  
14 12-H-X, and I take it that the sign up here above the dart  
15 board I'm pointing to has, S-W-A-I-N, appears to be a street  
16 sign, that's the sign that you're talking about, correct?

17 A That is correct.

18 Q And this view that we're looking at, this is the  
19 view basically from the front door to the west wall of the  
20 apartment, correct?

21 A Yes.

22 Q Okay. And the dart board is basically in the  
23 northwest corner of the room, correct?

24 A That is correct.

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APPENDIX 001236

1 MR. SOUK: That's all.

2 THE COURT: Lights.

3 Q (By Mr. Souk) Now the questions that you were  
4 asked at grand jury and the answers you gave were as  
5 follows, "Question --"

6 MR. BEU: Page?

7 MR. SOUK: I'm sorry, 28.

8 Q (By Mr. Souk) Well, let's go back a little bit,  
9 keep it in context. We were, at that point, going back to  
10 page 27, "Question: When you returned on August 4th you saw  
11 Jennifer on that day, correct? Answer: Yes. Question:  
12 Could you tell us where you saw her and for how long a  
13 period of time? Answer: I saw her at her apartment for  
14 about ten or 15 minutes, and then I took her to class  
15 because she had to go to class, and she was going to walk  
16 that day, but she was late, so I gave her a ride. Question:  
17 She would still have been in summer school at that time?  
18 Answer: Yes. Question: And summer school finished shortly  
19 thereafter, right? Answer: Yes, as far as I know.  
20 Question: Between summer school and start of the fall  
21 semester she went to California, right? Answer: Yes.  
22 Question: Were you in her apartment that day? Answer:  
23 Yes. Question: Did you two have a sexual relationship that  
24 day? Answer: No. Question: Just talked for a little bit?

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APPENDIX 001237

1 Answer: Yes. Question: Where were you in the apartment  
2 that day? Answer: In the living room." Now those  
3 questions made it obvious that we were talking about your  
4 last visit you say ever with Jennifer Lockmiller on August  
5 the 4th of 1993, correct?

6 A Correct.

7 Q Then the next question I asked you was, "Did you  
8 know that Mr. Swaine had moved in with her prior?" And your  
9 answer was, "I noticed that when I got there." Do you  
10 recall that question and answer?

11 A Yes, I do.

12 Q So the question I asked you wasn't what things you  
13 saw there, but whether you knew that he had moved in?

14 A Correct.

15 Q And then my question was, "His things," plural,  
16 "things were there?" And your answer was, "Yes." You  
17 recall that question and answer?

18 A Things, not specific, yes.

19 Q And then my question was, "You obviously knew what  
20 his things were because he'd been living with you, right?"  
21 Your answer, "Right. Question: I guess that pretty well  
22 gave you the final confirmation that you'd been right?

23 Answer: Well, it was obvious, yes. Question: Up until  
24 that point in time you said that before you went to

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APPENDIX 001238

1 Cincinnati Jennifer had continued to deny a sexual  
2 relationship with Swaine, right? Answer: Correct.  
3 Had Swaine, had you confronted him about it? Answer: Yes.  
4 Question: What did he say? Answer: He didn't say  
5 anything. And when you got back on the 4th and you saw that  
6 his things were moved in, did you confront her again?  
7 Answer: No." Do you recall those questions and answers  
8 as --

9 A Yes, I do.

10 Q Of course, you didn't say anything there or  
11 anywhere else in the grand jury about the Swain sign, did  
12 you?

13 A I was never asked about specific things of  
14 Swaine's that I saw.

15 Q But the things that you saw that caused you to  
16 believe that he had moved in was the Swain sign?

17 A That is correct.

18 Q That is all?

19 A That is correct.

20 Q Just the Swain sign?

21 A And also the fact that he was driving her car, and  
22 the apartment did not appear to be lived in.

23 Q Any other things that you saw over there, just the  
24 Swain sign?

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APPENDIX 001239

1 A Yes, sir.

2 Q That's all?

3 A Yes, sir.

4 Q I want to go back one more time to the statement  
5 to Daniels. He asked you some questions about Swaine, too,  
6 did he not?

7 A I believe so.

8 Q And referring to Swaine, you were asked these  
9 questions and gave these answers, weren't you, "Daniels:  
10 Okay, when, okay, when did you last see him then? Answer:  
11 The last time I would have seen him would have been August  
12 4th. Question: In Bloomington? Answer: Yeah. Question:  
13 Whereabouts in Bloomington? Answer: At the apartment. I  
14 went back to pick up my stuff and leave them my keys."  
15 Answer or -- "Question: Whose apartment? Answer: Our  
16 apartment. Question: Then you shared the same apartment?  
17 Yeah." Remember those questions and answers?

18 A Yes, I do.

19 Q Then a little bit later he asked you, "Yeah, when  
20 was the last time you were in the apartment that the two of  
21 you shared in Bloomington? Answer: The last time I was in  
22 the apartment would -- was August 4th. Question: And when  
23 was the last time you saw Mike? Answer: August 4th.  
24 Question: Okay, where did you see him? Answer: In the

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1 apartment." Remember those questions and answers?

2 A Yes, I do.

3 Q Then I'm going to refer you again to February the  
4 16th when you talked to Detective Freesmeyer. Again, you  
5 remember that conversation?

6 A I'm sure you'll relate it to me.

7 Q And you remember these questions and answers,  
8 starting with a reference to being in Ohio, "Freesmeyer:  
9 Did you ever call her from there to talk to her?" Your  
10 answer, "Yeah, I called her once. Freesmeyer: What she,  
11 what'd she say then? What, what was the attitude?" Your  
12 answer, "She was making excuses. Freesmeyer: Yeah, such  
13 as?" Your answer, "Covering up, you know, oh Swaine, you  
14 know, I mean it was just like, I don't know. The last time  
15 I ever saw her was when I came back, inaudible, to get in  
16 the car to go up to Rockford from Cincinnati. Freesmeyer:  
17 Yeah, what'd she have to say then? Was she still making  
18 excuses, or -- how long did you talk with her then? Answer:  
19 I went by her house after I called her from our apartment.  
20 Actually, it was just Swaine's apartment at that stage.  
21 Went by her house, talked to her for a few minutes, took her  
22 to class, dropped her off, that was it." Remember those  
23 questions and answers?

24 A Yes, I do.

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APPENDIX 001241

1 Q And sometime during the fall of '93 you had a  
2 number of conversations with Jenny Sieg, didn't you?

3 A I believe so, yes.

4 Q And during one of those conversations you told  
5 Jenny Sieg that the first time that you knew that Swaine had  
6 moved in was when the detective told you that after Jennifer  
7 was murdered, correct?

8 A That is correct. That is the first time I had any  
9 positive confirmation telling me that it was a fact that  
10 Swaine had moved in.

11 Q And on March the 9th Detective Freesmeyer -- oh,  
12 by the way, what detective was it that told you that Swaine  
13 had moved in there?

14 A I'm not certain. I believe it was Daniels or  
15 Freesmeyer, one of those two.

16 Q Which conversation?

17 A I have no idea. There were many conversations.

18 Q At any rate, on --

19 A It might have been Swaine, actually now that I  
20 think about it. One of the wire tap times he may have  
21 mentioned it.

22 Q So it wasn't a detective at all?

23 A I'm not certain. Somebody told me this.

24 Q And when you talked with Detective Freesmeyer the

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APPENDIX 001242

1 final time before being arrested on March the 9th, he asked  
2 you specifically about that again, and you also told him  
3 that you didn't know that Swaine had moved in until after  
4 she was dead, right?

5 A That is correct.

6 Q When did you first remember about seeing that  
7 Swain sign?

8 A I'm not even certain. If I had been asked  
9 specifically during the grand jury hearing about what I did  
10 see I would have been able to recall that.

11 Q So again, you weren't asked specific enough  
12 questions?

13 A No, I was not.

14 Q And during this entire investigation you have  
15 either been asked double questions, or trick questions, or  
16 questions that weren't specific enough?

17 A Subterfuge, yes, sir.

18 Q That includes the whole Normal Police Department?

19 A Anyone I talked to.

20 Q Including me at the grand jury?

21 A Yes, sir.

22 Q You have reviewed all the discovery materials, I  
23 take it, that have been sent to you?

24 A To some degree, yes.

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AB018027

APPENDIX 001243

1 Q And you were present here in court obviously for  
2 the entire trial?

3 A Yes, sir.

4 Q And you heard Michael Swaine's testimony?

5 A Yes, I did.

6 Q And you heard Mr. Swaine testify here in court  
7 about the Swain sign, didn't you?

8 A Yes, I did.

9 Q And you heard him say that that was the only  
10 object that he owned that was in Jennifer's apartment on  
11 August the 4th, didn't you?

12 A Yes, I did.

13 MR. SOUK: That's all I have, judge.

14 THE COURT: All right, counsel step up for just a  
15 moment, please.

16  
17 (WHEREUPON A DISCUSSION WAS HAD AT THE  
18 BENCH OFF THE RECORD.)  
19

20 THE COURT: We're going to take about a ten-minute  
21 recess. The witness can step down. Bailiffs can take  
22 charge of the jury and return them to the jury deliberation  
23 room. You may leave your notebooks where they are.  
24

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APPENDIX 001244

1 (WHEREUPON THE JURY EXITED THE COURTROOM  
2 AND THE FOLLOWING WAS HAD:)

3  
4 THE COURT: All right, for the record, note that the  
5 jury has removed itself from the courtroom and the court is  
6 now in recess.

7  
8 (WHEREUPON A BRIEF RECESS WAS HAD.)

9  
10 THE COURT: All right, once again this is 94-CF-476.  
11 Counsel and the defendant return to open court. The  
12 defendant has now resumed the witness stand. The jury is  
13 outside of the courtroom. Are you ready to proceed, Mr.  
14 Beu?

15 MR. BEU: Yes, your Honor.

16 THE COURT: Mr. Souk?

17 MR. SOUK: Yes, your Honor.

18 THE COURT: All right, call the jury back in.

19  
20 (WHEREUPON THE JURY ENTERED THE COURTROOM  
21 AND THE FOLLOWING WAS HAD:)

22  
23 THE COURT: All right, for the record, the jury is now  
24 returned to the courtroom. Mr. Beu, you may proceed with

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APPENDIX 001245

1 redirect examination.

2 MR. BEU: Thank you, your Honor.

3  
4 REDIRECT EXAMINATION

5  
6 BY MR. BEU:

7  
8 Q Mr. Beaman, you recall being asked by Mr. Souk  
9 questions concerning several times, three, four, five times  
10 perhaps as described by Mr. Cornell, a previous neighbor of  
11 Jennifer's?

12 A Yes.

13 Q Do you remember being asked about coming there  
14 late at night and yelling and trying to gain entrance?

15 A Yes.

16 Q And you recall being asked, were those occasions  
17 when you wanted to talk and she didn't want to talk, and  
18 your response being she usually didn't want to or couldn't?

19 A Yes.

20 Q And then you indicated you didn't think you could  
21 answer Mr. Souk's question as to why she couldn't. Would it  
22 have been your response that you were concerned that she may  
23 have ingested some substances which might have made it  
24 impossible for her to respond?

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APPENDIX 001246

1 A Yes.

2 Q Now, Alan, you were arrested, were you not, on May  
3 17th?

4 A Yes.

5 Q Did you stay in custody approximately seven days?

6 A It was approximately ten days.

7 Q Okay. You were arrested on the 17th. There is a  
8 People's Exhibit that you have been referred to here,  
9 Exhibit No. 87.

10 MR. BEU: May I, your Honor?

11 THE COURT: You may.

12 Q (By Mr. Beu) That being the mileage report  
13 prepared by Mr. Slaughter?

14 A Correct.

15 Q Okay. It's correct, is it not, that you were in  
16 custody and had been in custody approximately six days at  
17 the time that was prepared?

18 A That is correct.

19 Q It's correct, is it not, that this was done in  
20 anticipation and preparation for your bond hearing?

21 A As far as I know.

22 Q And this was introduced, was it not, as an exhibit  
23 in your bond hearing?

24 A Yes, it was.

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APPENDIX 001247

1 Q Did you ever meet with Loyale Slaughter?  
2 A No.  
3 Q Had you ever met Loyale Slaughter before or since  
4 then?  
5 A No.  
6 Q He's also employed, is he not, by Executive  
7 Protection and Investigation?  
8 A Yes.  
9 Q The same agency for which Laverne Pickett works?  
10 A That is true.  
11 Q Now have you looked over the information on this  
12 report prepared by Mr. Slaughter?  
13 A Yes.  
14 Q What route is indicated on here, the fourth item  
15 on it, Beaman residence to Bell Federal?  
16 A Via Meridian/bypass 20.  
17 Q And why is that?  
18 A Because that's what would make sense.  
19 Q Is that the route that you would routinely take to  
20 go to that location?  
21 A Yes.  
22 Q Do you recall at the -- at the grand jury being  
23 asked this question and giving this answer: "Where do you  
24 bank? Answer: Bell Federal Savings & Loan. When you go

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APPENDIX 001248

1 there, or to your friends that you mentioned live on the  
2 east side of town, do you go through Rockford? Yes. That  
3 your normal route of travel? Yes." Do you know what I mean  
4 by a double question?

5 A Yes, I do.

6 Q Which half of that question did you intend to be  
7 answering to Mr. Souk at the grand jury?

8 A What route I took to visit friends.

9 Q Now you have seen the routes that were referred to  
10 by Mr. Pickett during his testimony, correct?

11 A Yes.

12 Q And you observed the routes as he traced them on  
13 the map, and then you also saw some of the map routes that  
14 the state had prepared?

15 A Yes.

16 Q Okay. Are the routes that you directed Mr.  
17 Pickett on the mileage check that he ran both accurate and  
18 normal routes for you for particular places you were going?

19 A Yes.

20 Q Now you did not testify at your bond hearing,  
21 correct?

22 A No, I did not.

23 Q Was that on advice of counsel?

24 A I guess, yes.

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APPENDIX 001249

1 Q Okay. Is it true that what was presented at the  
2 bond hearing was only that portion of your week's activity  
3 that could be confirmed by people that did testify at your  
4 bond hearing?

5 A That is true.

6 Q Such as your mother?

7 A Yes.

8 Q Your father?

9 A Yes.

10 Q Chris Carbone?

11 A Yes.

12 Q Pastor Mitch Olson?

13 A Yes.

14 Q Cliff Gray?

15 A Yes.

16 Q Is it correct that those people could verify your  
17 basic activities and your basic schedule during that week?

18 A Yes.

19 Q What is your understanding of the basic round-trip  
20 mileage from Rockford to Bloomington -- Normal?

21 A Round-trip approximately a hundred and sixty miles  
22 -- or rather 260 miles from Rockford.

23 Q All right. So out of 320 miles, how many miles  
24 would it take to make it impossible and also made it down to

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APPENDIX 001250

1 Normal?

2 A It would only take 60, over 62.

3 Q Did the routes that you took Mr. Pickett on  
4 include running to get blacktop sealer for your uncle's  
5 drive?

6 A No, they did not.

7 Q Did you do that in the course of that job?

8 A Yes.

9 Q And what day or days?

10 A I believe Friday.

11 Q Where did you get that?

12 A Farm & Fleet, it's just down the street from my  
13 uncle's place.

14 Q Were there any other miscellaneous pieces of  
15 driving that did not get picked up in your basic route then  
16 for that week?

17 A Beer runs for the party. I drove a couple of  
18 people who were 21 at the time.

19 Q Just that kind of miscellaneous stuff?

20 A Yes.

21 Q Calling your attention back to August 30th, you  
22 recall, I assume, that that was the day after your late  
23 night encounter with the police?

24 A Yes.

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APPENDIX 001251

- 1 Q Two days after -- excuse me, that was --
- 2 A Following, yes.
- 3 Q You had been taken down I believe to the police
- 4 station around 11 o'clock on Saturday evening?
- 5 A Roughly, yes.
- 6 Q I take it that you returned home sometime
- 7 following midnight?
- 8 A Yes.
- 9 Q So the first meeting you had then in my office was
- 10 the following day, but more like closer to two days?
- 11 A Correct.
- 12 Q Okay. You met with me along with your parents,
- 13 correct?
- 14 A Yes.
- 15 Q Okay. Then along the line early on, did you get
- 16 some general advice about contacts with the police about
- 17 volunteering information?
- 18 A Yes, I did.
- 19 Q Did that include saying, saying nothing?
- 20 A Yes, that did.
- 21 Q Now, you've indicated that you stayed in touch
- 22 with counsel during the course of this. Did you, from time
- 23 to time, speak to your counsel and let him know that you had
- 24 had contacts from one or the other police officers?

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APPENDIX 001252

1 A Yes, over the phone for short calls.

2 Q During this period of time, once you returned here  
3 to school, Alan, was it your understanding that your parents  
4 and I were in communication?

5 A Yes.

6 Q When you had something to relate back here, who  
7 were you primarily calling?

8 A You.

9 Q Did you tell me on the occasions that you called  
10 that you hadn't talked to them, that they -- they came to  
11 you, but you didn't really talk to them?

12 A No, I did not tell you that.

13 Q Okay. What -- did your advice you were given ever  
14 change --

15 A No.

16 Q -- with advisability of not speaking to them?

17 A No, it did not.

18 Q To your knowledge and understanding, did you ever  
19 tell a mistruth to either any investigator, or during your  
20 grand jury testimony, or during your testimony yesterday?

21 A No.

22 Q It's true, is it not, that you did not volunteer  
23 certain information?

24 A I suppose, yes.

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APPENDIX 001253

1 Q Specifically with respect to Bell Federal and some  
2 of the details concerning the odometer readings?

3 A Yes.

4 Q At any time up through and including the bond  
5 hearing, which occurred to your recollection ten days after  
6 your arrest, was it ever stated to your knowledge in any  
7 public way by the authorities here that the crime had  
8 occurred at a definite date?

9 A No.

10 Q Or during some definite period of time?

11 A No.

12 Q And wasn't it for the first time when we called  
13 Tony Daniels to the stand in your bond hearing, that that  
14 was announced for any public consumption?

15 A Yes.

16 Q Had it been part of your advice that until such  
17 time as they made up their mind as far as a date and a time  
18 you should not be disclosing your documentary evidence so  
19 that they could possibly work around it in some fashion?

20 A Yes.

21 Q And is that part of what was on your mind as you  
22 were going through this investigative stage?

23 A Sometimes, yes.

24 Q Do you remember the excerpt basically that Mr.

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APPENDIX 001254

1 Souk was reading to you on cross examination concerning some  
2 of the letters that you had written to Jennifer?

3 A Yes.

4 Q You mentioned for one thing that one excerpt there  
5 was the words from a -- from a song by an Eddie -- what was  
6 the name?

7 A Eddie Vetter.

8 Q Vetter, okay. Do you recall, at this time, during  
9 what part of the relationship you had written that song  
10 lyric to her?

11 A That would have been sometime in the fall.

12 Q Of '90 --

13 A Shortly after the whole miscarriage issue, I  
14 believe.

15 Q All right. Are any of these excerpts, to the best  
16 of your recollection that he read to you during your cross  
17 examination, are -- were any of them to your knowledge part  
18 of the 1993 letters?

19 A I don't believe, no.

20 Q If you had a chance to look at those again --

21 A Yes.

22 Q -- would you perhaps be able to tell? Mr. Beaman,  
23 I show you a copy of the report, I believe of Detective  
24 Freesmeyer's, from which those excerpts were taken earlier.

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APPENDIX 001255

1 Ask you to take a look at that and see if you can recall  
2 whether any of those about which Mr. Souk asked you were  
3 from the 1993 letters?

4 A Some of these are really, really, short  
5 statements, and those might be, or might not be from '93, I  
6 can't think. But as far as everything else, as far as  
7 everything else is concerned, no.

8 Q That would put it at least fall or earlier of  
9 1992?

10 A Yes.

11 Q Okay --

12 A There's only one, I believe. It's -- I can't tell  
13 what the exhibit number is from here.

14 Q At any rate, anything more than just a line or  
15 two, is that what you're indicating, was from back in '93?

16 A Yes.

17 Q Okay. You were -- you were asked about when you  
18 entered into Swaine -- pardon me, Jennifer's apartment and  
19 Michael Swaine was, in fact, hiding in the closet. And  
20 referring to -- to Jennifer at that time as your ex-  
21 girlfriend in one or another statements that you have made.

22 A I believe so, yes.

23 Q That was what, July of 1993?

24 A Yes.

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APPENDIX 001256

1 Q Is that the first time that Jennifer had been your  
2 ex-girlfriend?

3 A No.

4 Q How many times before that had she been your ex-  
5 girlfriend?

6 A Seventeen.

7 Q How long had this ex-girlfriend status lasted on  
8 this last occasion as of the date you broke the door down?

9 A I'm not certain. It would have only been a few  
10 days --

11 Q Now --

12 A -- to a week.

13 Q Okay. I'm talking prior to the time that you went  
14 in to Jennifer's apartment through the door with Swaine in  
15 the closet.

16 A Yes.

17 Q Okay. How did that compare with any of the other  
18 previous break-ups in terms of length of the break-up?

19 A It was roughly the same, a little bit longer  
20 though.

21 Q Going to the last day that you were at the summer  
22 program --

23 A Hm-mmm.

24 Q -- that Sunday in August when you got on to the

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APPENDIX 001257

1 stage with the document in your hand that you wished to  
2 confront Michael Swaine with, do you recall seeing any other  
3 persons on the stage area where you and he met?

4 A No.

5 Q Do you have independent knowledge of where, for  
6 example, Katy and Kris were, Katy Corbett and Kris Perry?

7 A I believe I saw them up in the prop shop on my way  
8 out.

9 Q Did you see them in the immediate area of the  
10 stage at anytime while you and Alan were talking, or  
11 yelling, or whatever, at each other?

12 A No.

13 Q If -- if as they each recalled they were off stage  
14 at the time of the yelling, would that be consistent with  
15 your recollection?

16 A Yes, it would.

17 Q When you went to Jennifer's that morning, I  
18 believe that's the morning then that you went through her  
19 garbage, correct?

20 A Correct.

21 Q Which garbage in her apartment did you go through?

22 A The bathroom.

23 Q Did you touch or go through garbage of hers from  
24 any other room at that time?

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APPENDIX 001258

- 1 A No.
- 2 Q Had you ever at any earlier time gone through any  
3 of the garbage?
- 4 A No, I had not.
- 5 Q On the 23rd of August after you were back and  
6 working here for awhile, you had a phone conversation on a  
7 Monday evening with Jennifer?
- 8 A Yes.
- 9 Q Recall that? Okay. Do you recall at this point  
10 specifically what you said to your parents after you  
11 terminated that conversation?
- 12 A I don't recall specifically. It would have been  
13 something to the effect of, "That was Jen. She was calling  
14 to try to get back together with me."
- 15 Q Is it very likely, in any way, that you related  
16 that she wanted to get together with you?
- 17 A Yes.
- 18 Q Is it clear, however, in your mind, as far as the  
19 conversation with Jennifer, as to whether or not she, as Mr.  
20 Souk inferred, invited you down?
- 21 A It is clear that she did not.
- 22 Q It is true, is it not, Alan, that every one of the  
23 police interviews that you had occurred before the  
24 authorities here made any public announcement of the date or

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APPENDIX 001259

1 the time of Jennifer's death?

2 A That is correct.

3 Q Every one of the interviews that Mr. Souk took you  
4 through at length, you were operating under that same  
5 situation, were you not?

6 A Correct.

7 Q And even on October 27th in talking with Detective  
8 Freesmeyer he told you, if I understand correctly, that --  
9 what about the day at that time? Do you remember? Do you  
10 remember what he told you about?

11 A My conversation with Daniels?

12 Q I'm talking about late October in talking with  
13 Detective Freesmeyer. Was there not a conversation that's  
14 been described here in which he was telling you you were  
15 going to be arrested?

16 A Yes.

17 Q And there was a gap in your alibi?

18 A Yes.

19 Q And things like that he was saying?

20 A Correct.

21 Q What day was he talking about, do you remember?

22 A I have no idea.

23 Q Okay. Do you recall that he ever did say to you  
24 even a day at that time?

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APPENDIX 001260

- 1 A I don't believe so.
- 2 Q He did tell you during some of those
- 3 conversations, Detective Freesmeyer that is, that they had
- 4 your fingerprint?
- 5 A Yes.
- 6 Q And that they were waiting for lab tests?
- 7 A Yes.
- 8 Q And that you were going to be arrested after they
- 9 got the results of the lab tests. Is that correct?
- 10 A That's correct.
- 11 Q Did he ever indicate to you what sort of lab tests
- 12 there was that they were going to be waiting for?
- 13 A He did not indicate what was being waited for.
- 14 However, I was, of course, present when those samples were
- 15 taken from me.
- 16 Q Okay --
- 17 A So --
- 18 Q Did you, from being present, from knowing what
- 19 kind of samples had been taken, have some reason in your
- 20 mind to expect what type of reports they were waiting for?
- 21 A Yes.
- 22 Q What?
- 23 A Waiting for DNA samples, or something like that.
- 24 Q Okay. Did you have any real doubt in your mind,

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1 as far as whether DNA, semen specifically of yours, might  
2 well be around in Jennifer's apartment?

3 A No doubt.

4 Q It was obvious to you from the course of your  
5 police contacts at that point, was it not, that from either  
6 what you told them or from what they gathered and told you  
7 from other people that -- that you and Jennifer had had a  
8 sexual-oriented sexual relationship?

9 A That is correct.

10 Q Didn't seem to you, at the time, did it, that they  
11 were looking for anything that would perhaps have to confirm  
12 that?

13 A No.

14 Q Are you aware of anything that they found in the  
15 way of evidence from that point on, besides your  
16 fingerprints and your semen on a piece of bed clothing  
17 there, between then and the time you were finally arrested?

18 A No.

19 Q I just want to make it clear, Alan, it's correct,  
20 is it not, that you met with me and your folks in the course  
21 of preparing for your appearance before the grand jury?

22 A That is true.

23 Q And it's also true, is it not, that at the grand  
24 jury I was not able to participate, ask questions, or

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APPENDIX 001262

1 anything of that sort?

2 A That is true.

3 Q Is it correct that you had some -- some advice  
4 from counsel with respect to conducting yourself in response  
5 to questions at the grand jury?

6 A Yes.

7 Q What were those general instructions that you had  
8 from counsel?

9 A Those general instructions were to answer the  
10 questions to the best of my ability, and not to necessarily  
11 be asking you questions constantly throughout the whole  
12 thing, and simply answer the questions.

13 Q Okay. That advice included answering questions  
14 honestly, did it not?

15 A Yes.

16 Q Did it also include not going beyond the questions  
17 that were asked you?

18 A That is true.

19 Q Do you recall the testimony earlier here by  
20 Detective Freesmeyer that he had in his possession the Bell  
21 Federal security tape recording on September 24th of 1993?

22 A That's correct.

23 Q Now he met you, I take it, for interviews on  
24 October 12th, and October 22nd, and October 27th?

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APPENDIX 001263

1 A Yes.

2 Q And you met with him again on November 5th?

3 A Yes.

4 Q In any of those interviews, for example in October  
5 specifically, did -- did he ever say to you, "Alan, did you  
6 make a stop at a bank sometime that day?"

7 A No, he never did ask that.

8 Q Did he ever ask you anything about any bank, even  
9 in general?

10 A No, he did not.

11 Q So is it correct that he had the information that  
12 you had been at Bell Federal and was still giving you open-  
13 ended questions and inviting you to not answer them?

14 A That is correct.

15 Q And ultimately then trying to make that sound like  
16 some sort of a lie?

17 A That is true.

18 Q It's true, isn't it, that he kept asking you where  
19 you went after work?

20 A Yes.

21 Q And you responded that you went home and that you  
22 went to bed?

23 A That is correct.

24 Q Again I'll ask you, did you ever misstate or lie

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APPENDIX 001264

1 in your responses on these things?

2 A As far as I know, no.

3 Q It is true that you did not volunteer certain  
4 information. Isn't that right?

5 A That is true.

6 Q In regards to the bank transaction, Mr. Souk asked  
7 you whether you had told anyone about going to the bank  
8 prior to your testimony at the grand jury, and you said you  
9 hadn't told anyone. Were you referring to any police  
10 officers?

11 A Yes.

12 Q You had discussed that within your family and your  
13 counsel.

14 A Yes.

15 Q Correct? Would you have seen any advantage to  
16 yourself at that time, Alan, in trying to suppress  
17 documentary evidence that you were a hundred and sixty some  
18 miles from Normal at the time Jennifer was killed?

19 A No, there would be no reason I would want to  
20 suppress that.

21 Q But, at that time, you still didn't know when they  
22 said you were supposed to have killed her, right?

23 A That is true.

24 Q And you were the one, to the best of your

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APPENDIX 001265

1 Q -- on the questioning about August 4th?

2 A Correct.

3 Q He ran you through this a little bit ago about  
4 where you met up with her, and how long you talked with her,  
5 and that sort of thing, correct?

6 A I'm sorry.

7 Q Mr. Souk, you recall running you through some of  
8 that questioning and answering earlier here today about the  
9 lead into these questions about what you saw of Mr. Swaine's  
10 in Jennifer's apartment?

11 A Yes.

12 Q His question, "Did you know that Mr. Swaine had  
13 moved in with her prior? Answer: I noticed that when I got  
14 there. Question: His things were there?", Souk's language,  
15 right?

16 A That's correct.

17 Q "Question: You obviously knew what his things  
18 were because he'd been living with you, right? Right. I  
19 guess that pretty well gave you the final confirmation that  
20 you'd been right? Well, it was obvious, yes." Did you  
21 recognize that sign as containing the name of the friend  
22 that you had known for four years, had been his big brother  
23 at school, and shared an apartment with him during the  
24 course of that whole summer?

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APPENDIX 001266

1 A Yes, I did.

2 Q You didn't have any misconception about his name,  
3 did you?

4 A No.

5 Q Or about the fact that that was an item personally  
6 obviously his?

7 A Yes.

8 Q Mr. Souk never went further about that in his  
9 questioning of you, did he?

10 A No, he did not.

11 Q Isn't it correct that right after the exchange:  
12 "I guess that pretty well gave you the final confirmation  
13 that you'd been right? Answer: Well, it was obvious,  
14 yes.", was the next question: "Up until that point in time,  
15 you said that before you went to Cincinnati Jennifer had  
16 continued to deny a sexual relationship with Swaine, right?  
17 Answer: Correct."? Did he ever ask you what things you  
18 saw?

19 A No, he did not.

20 Q Did he ever ask you how many things?

21 A No, he did not.

22 Q Did he ever make clear to you that he had  
23 intentionally structured a line of questions tossing in the  
24 words, things, so that he could walk into a courtroom later

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APPENDIX 001267

1 and try to make it sound like you lied? Is that question  
2 clear?

3 A That, that -- that's clear. I'm not certain how  
4 you're asking it. Just -- phrase it again, please.

5 Q I'll withdraw the question.

6 MR. SOUK: Judge, may we approach?

7 THE COURT: You may.  
8

9 (WHEREUPON A DISCUSSION WAS HAD BETWEEN  
10 COURT AND COUNSEL AT THE BENCH AS FOLLOWS:)

11  
12 MR. SOUK: Despite my patience, it's running out. I'm  
13 giving counsel a lot of leeway without objection here to  
14 numerous questions that are obviously very objectionable.  
15 Are we about done with this, are we?

16 MR. BEU: Oh, I think we're close.

17 THE COURT: What is your objection, leading?

18 MR. SOUK: One of them.

19 MR. BEU: I'm on redirect, given latitude to do so.

20 THE COURT: I understand, you know, I understand that.  
21 I would ask you to just let the witness answer the question.  
22

23 (WHEREUPON THE FOLLOWING PROCEEDINGS  
24 WERE HAD IN THE PRESENCE OF THE JURY:)

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1 THE COURT: Proceed, Mr. Beu.

2 MR. BEU: Thank you, judge.

3 Q (By Mr. Beu) You recall Mr. Souk asking you  
4 certain things about the Tony Daniels' interview on Saturday  
5 night?

6 A Yes.

7 Q And do you recall part of that relating to your  
8 responses to him as to where you saw Swaine on August 4th?

9 A Yes.

10 Q Mr. Souk asked you, "Didn't you in that  
11 conversation meet -- or you said, "I guess I saw him at the  
12 apartment."

13 A Yes.

14 Q And you referred to it, I guess, as our apartment?

15 A Yes.

16 Q And Daniels asked you, "The apartment you shared,  
17 was it?"

18 A Yes.

19 Q How many people had shared that apartment during  
20 the summer?

21 A Four.

22 Q You weren't occupying that apartment still at the  
23 time, were you?

24 A No.

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APPENDIX 001269

1 Q The other two who had been there earlier during  
2 the summer were not sharing that apartment at the time, were  
3 they?

4 A No.

5 Q If Mr. Daniels had asked you the apartment that  
6 you shared with one of the other two guys, that would have  
7 been true, too, wouldn't it?

8 A It would have.

9 Q Depending on when you're referring it to --

10 A Yes.

11 Q -- you had shared it with them?

12 A Yes.

13 Q You had shared this apartment with Michael Swaine?

14 A Yes.

15 Q In fact, it wasn't even your apartment at that  
16 time?

17 A That is true.

18 Q Mr. Souk asked you some questions specifically  
19 also again about that Daniels' interview on Saturday night.  
20 For example, your recitation to him about Wednesday as you  
21 went through the week in response to his questions about  
22 when you went to Olson's house, what time you got there, and  
23 what you did during that day. Is it correct that that was  
24 the very first time between 11 and midnight that night that

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APPENDIX 001270

1 you'd had any occasion to have to try to think back and  
2 recount your activities during that week?

3 A That is true.

4 Q Isn't it correct that you'd just been stopped on  
5 the way to visit friends?

6 A Yes.

7 Q Handcuffed?

8 A Yes.

9 Q Taken down to the Public Safety Building?

10 A Yes.

11 Q Told by the police that stopped you originally,  
12 the Rockford police, that it was a homicide?

13 A Yes.

14 Q Did they tell you that before or after they  
15 handcuffed you?

16 A During.

17 Q Did you try your best to answer the questions as  
18 accurately as you could during that interview?

19 A Yes, I did.

20 Q Again that August 28th conversation with Daniels,  
21 during this period of time you responded to Mr. Souk that  
22 you were asked and answered the following questions. He  
23 asked you about how did you react when you found out that  
24 Jennifer was dating your roommate?

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APPENDIX 001271

1 A Yes.

2 Q Recall that? He asked you, "Do you recall, did  
3 you ever come down just to check to see who she was dating?  
4 No." How long had you been out of the Normal area as of  
5 that date on August 28th?

6 A Since August 4th, so 24 days.

7 Q And then you'd been in Cincinnati before that?

8 A Right.

9 Q Okay. You responded, no, you hadn't been down to  
10 check who she was dating, right?

11 A Correct.

12 Q And then the immediate question with that, "Other  
13 than finding her with Mike that night, you never did find  
14 her with anyone else? No. Did you ever visit the apartment  
15 and find the occasion of another man staying there?  
16 Answer: No." Were you intending to withhold information at  
17 that point about -- about John Murray?

18 A No, I was not.

19 Q Did you think about March of 1993 when you were  
20 being questioned between 11 o'clock and midnight in August?

21 A That is -- no, I did not.

22 Q Also in that same conversation, Mr. Souk asked you  
23 about the following questions and answers: "Daniels: It's  
24 very obvious the reason why we're here and asking you

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APPENDIX 001272

1 questions, especially when the sergeant informed you it was  
2 concerning a homicide in Normal/Bloomington. Now whose  
3 homicide do you think it is? Alan: Why don't you tell me,  
4 I don't know. Tony: I want to hear your thoughts. Whose  
5 homicide, and who do you think it is? Alan: I assume it's  
6 Jen you're asking me questions about. That's all you're  
7 really asking me about. Daniels: Yeah, it is Jennifer's.  
8 Alan: Okay." Recall being asked that series of questions?

9 A Yes, I do.

10 Q Do you recall immediately following that the  
11 ongoing questions by Detective Daniels were: "Daniels:  
12 Do you want to tell us who is responsible for that? Alan:  
13 I don't know. Tony: You don't know? Do you care? Alan:  
14 I do care. Tony: Do you want to help us with this? Sure.  
15 Tony: Okay, to what degree, to what extent do you want to  
16 help us with this investigation? Alan: What can I do?  
17 I mean, what is there I can do? Tony: Well, I would like  
18 for you to start telling us the truth as far as the last  
19 time you visited Jennifer. Alan: That is the last time I  
20 visited, what I told you. I had not talked to her since I  
21 left Bloomington, except on the phone when she called me  
22 twice. I've been in Rockford."? Recall that sequence  
23 coming immediately after that?

24 A Yes, I do.

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AB018057

APPENDIX 001273

1 MR. SOUK: What page is that, counsel?  
2 MR. BEU: Oh, I'm sorry, bottom of -- starting on the  
3 bottom of 34.  
4 MR. SOUK: Okay.  
5 Q (By Mr. Beu) Finally, I think, Alan, that during  
6 the conversations you had, which you now know were tape  
7 recorded by Michael Swaine?  
8 A Yes.  
9 Q You heard the tape played during the trial, right?  
10 A Yes.  
11 Q At the point in time when you were talking with  
12 him, did you consider him a friend?  
13 A Yes, I did.  
14 Q Did you have any idea that what you were saying  
15 was for anybody's ears but his?  
16 A No, I did not.  
17 Q What did his expressed concern to you during those  
18 conversations appear to be?  
19 A It appeared to be that he was not able to deal  
20 with Jennifer's death. That he was having a great deal of  
21 difficulty going on. He, at one point during one of those  
22 conversations, told me that he was thinking about just  
23 killing himself, and I attempted to intervene.  
24 MR. BEU: Thank you, that's all.

1950

C05398

AB018058

APPENDIX 001274

1 THE COURT: Any further questions, Mr. Souk?

2 MR. SOUK: Yes, your Honor.

3  
4 RECROSS EXAMINATION

5  
6 BY MR. SOUK:

7  
8 Q Okay, am I understanding you, Mr. Beaman, that  
9 even at this late date as we sit here now on March, whatever  
10 the date is today, I've lost track of time, but late March  
11 of '95, that there's more places you went that you didn't  
12 tell Mr. Pickett about? Is that what you're saying?

13 A Short insignificant trips.

14 Q Well, how short and how insignificant?

15 A It's probably about a half a mile to a mile from  
16 my uncle's house to Farm & Fleet. To Walgreen's from Dave  
17 Olson's would only be a few blocks.

18 Q How many trips did you make?

19 A I have no idea.

20 Q You have no idea how many times you went to Farm &  
21 Fleet?

22 A I know I went to Farm & Fleet about three times.

23 Q Beer runs during the week?

24 A No clue as to how many.

1951

C05399

AB018059

APPENDIX 001275

1 Q Well, one or two, or a lot?

2 A There could have been a maximum of five.

3 Q Anything else you forgot to tell us about?

4 A No.

5 Q Anything else you forgot to tell Mr. Pickett about  
6 when you were driving around town that day?

7 A No.

8 MR. BEU: Objection, the use of the term forgot is a  
9 suggestive question.

10 THE COURT: Objection is sustained.

11 Q (By Mr. Souk) Anything else, any other places as  
12 you sit there now that you recall that you went that week?

13 A No.

14 Q Now let me make sure I have this correct. You  
15 came back to school and your lawyer had advised you to say  
16 nothing, correct?

17 A That is correct.

18 Q And you didn't follow that advice, right?

19 A No.

20 Q So rather than say nothing, you gave part of the  
21 truth, but not all of the truth, right?

22 A I gave what I could recall.

23 Q Well, we've been through the odometer business  
24 before. But you really didn't give all the odometer

1952

C05400

AB018060

APPENDIX 001276

1 evidence you recalled, did you?

2 A I -- I'm confused. I mean I told lieutenant or  
3 Detective Freesmeyer everything that I could in hopes to aid  
4 him in his investigation, and that has now been used against  
5 me.

6 Q Well, it was involving that odometer evidence when  
7 you were asked about that that you basically said that the  
8 reason you weren't giving the full information is that you  
9 were in contempt of the investigation, correct?

10 A I was in contempt of the investigation. I'm not  
11 certain if that was directly the cause of my lack of  
12 recollection of certain bits and pieces of information that  
13 I'm not used to dealing with anyways.

14 Q As a matter of fact, you're still in contempt of  
15 the investigation, aren't you?

16 A Certainly.

17 Q You were never told a definite time for the murder  
18 until the bond hearing, right?

19 A That is true.

20 Q But you were told Tuesday or Wednesday. Didn't  
21 you just testify to that?

22 A Yes, I was.

23 Q You were told that August the 28th by Daniels,  
24 right?

1953

C05401

AB018061

APPENDIX 001277

1 A Yes.

2 Q And you're saying that on October the 27th and  
3 November the 5th when Detective Freesmeyer was talking to  
4 you about the gap in your alibi from ten to four that you  
5 didn't understand he was talking about Wednesday, August the  
6 25th?

7 A No, I didn't.

8 Q You didn't know what day he was talking about?

9 A No.

10 Q You sure?

11 A I'm very sure. I had nothing to refer to.

12 MR. SOUK: Page two, counsel, of the overhear.

13 Q (By Mr. Souk) His question, "Yeah, what time did  
14 you get home on Wednesday, Wednesday morning?" Remember  
15 that question?

16 A Yes, I suppose. That's one single question. When  
17 was it asked of me?

18 Q November the 5th.

19 A Okay.

20 Q You want to look at this? I'm quoting right off  
21 of here.

22 A Go ahead.

23 Q You trust me to quote it all right, or do you want  
24 to look at it?

1954

C05402

AB018062

APPENDIX 001278

1           A    I don't know if I trust you, but I don't think you  
2 could get away with anything.

3           Q    Not like I did outside of court, right?

4           A    I'm not sure what you're making reference to.

5           Q    Well, you were tricked at the grand jury?

6           A    That's in court, isn't it?

7           Q    Were you tricked in the grand jury?

8           A    Yes.

9           Q    This is a reference on November 5th, right, on the  
10 tape, to Wednesday, Wednesday morning, he's asking you  
11 about, right? You know what day Wednesday was, didn't you?

12          A    I don't know.

13          Q    You didn't know what day Wednesday was?

14          A    I never know the date.

15          Q    Through the whole investigation I've been talking  
16 to you about the week of August the 23rd of 1993, right?

17          A    Yes.

18          Q    You didn't know what day Detective Freesmeyer was  
19 talking to you about?

20          A    I'm not certain of the specifics.

21          Q    Your answer, "I don't know, it's too long ago.

22 Freesmeyer: Can you give me a ballpark figure? Oh,  
23 probably around -- did I go to the bank? Is it Wednesday  
24 that you have the deposit slip? Yeah. Then I guess it was

1955

C05403

AB018063

APPENDIX 001279

1 Wednesday." Must have been Wednesday, the 25th, right?

2 A Apparently so.

3 Q And on October the 27th when he first started  
4 talking to you about the gap in your alibi, he was talking  
5 to you about Wednesday, the 25th, wasn't he?

6 A I guess so.

7 Q Well, I don't want to put words in your mouth, Mr.  
8 Beaman. You were answering questions about a ten to four  
9 gap in your alibi, and you're saying you didn't even know  
10 what day of the week he was talking about? Is that what  
11 you're saying?

12 A Sorry, your Honor, you've lost me.

13 Q On October the 27th, Detective Freesmeyer first  
14 talked to you about a gap in your alibi, right?

15 A Yes, he did.

16 Q First told you about the bank on that day, right?

17 A Yes, he did.

18 Q Are you -- and he told you it was a ten to four  
19 gap in your alibi, right?

20 A Yes.

21 Q What day was he talking about?

22 A I suppose he was talking about Wednesday.

23 Q Well, you just before, when Mr. Beu asked you, you  
24 didn't even know what day he was asking you about --

1956

C05404

AB018064

APPENDIX 001280

1 A Well, I don't -- I'm going on what you can refresh  
2 my memory with from what has been recorded or written down  
3 in a report or whatever.

4 Q Well, I'm asking you what you're answering that  
5 day. Were you giving answers to Detective Freesmeyer and  
6 you didn't even know what day he was asking about? Is that  
7 what you're saying?

8 A I'm certain I knew what day he was asking about at  
9 the time, if he was mentioning a day to me.

10 Q You assumed that there were DNA testing being  
11 done, correct?

12 A Yes.

13 Q Got that one right. There was, wasn't there?

14 A I suppose so, yes.

15 Q You've seen some DNA reports, haven't you?

16 A Yes, I have.

17 Q There's going to be a stipulation about the  
18 results of those, isn't there?

19 A Yes.

20 Q You signed it, didn't you?

21 A Yes.

22 Q Your final fingerprints were not taken until  
23 February 16th, were they?

24 A That is correct.

1957

C05405

AB018065

APPENDIX 001281

1 Q In fact, that last tape-recorded conversation was  
2 done primarily in the car with you and Freesmeyer going to  
3 the Morton Crime Lab in fact, correct?

4 A That is correct.

5 Q Now, when you went to the grand jury your lawyer  
6 advised you what, basically that it would look bad if you  
7 were asking him questions, or whispering to him, or asking  
8 to go out of the room?

9 A Yes.

10 Q So you never did consult with him, right?

11 A No.

12 Q Surely he told you, didn't he, before you went in  
13 there that if you were asked a question that confused you or  
14 you didn't understand that you should ask me to rephrase it  
15 or to ask it again, didn't he?

16 A Yes.

17 Q You never did that during the whole grand jury,  
18 did --

19 A No.

20 Q Not even with those double questions?

21 A No.

22 Q Didn't seem to confuse you at the time, did they?

23 A I answered to the best of my ability.

24 Q The Swain sign, I'm the first one who said things,

1958

C05406

AB018066

APPENDIX 001282

1 right?

2 A Yes, you are.

3 Q I always said things, plural, didn't I?

4 A Yes, you did say thing, plural.

5 Q What is there plural about a Swain sign?

6 A Nothing.

7 Q What is there about a Swain sign that would tell  
8 you that somebody had moved in and was living there?

9 A It was a possession of Michael Swaine's.

10 Q What is there about that particular possession  
11 that would tell you that someone had moved in as opposed to  
12 having lent or given it as a souvenir to Jennifer?

13 A Why would somebody want to borrow a Swain street  
14 sign?

15 Q Maybe because somebody might be having a  
16 relationship with Swaine possibly. Could that be possible?

17 A Then it would be a reasonable inference.

18 Q Because of that sign on the wall that he,  
19 therefore, not only had a relationship, but moved in?

20 A That was her general practice.

21 Q Now during the overhears with Swaine -- well, he  
22 was tricking you, too, obviously, correct?

23 A Obviously.

24 Q And he was expressing concerns about his own

1959

C05407

AB018067

APPENDIX 001283

1 feelings and how he was dealing with the situation, right?

2 A Yes.

3 Q Even to the point where he said some things that  
4 even made you think maybe he was thinking about doing  
5 something to himself?

6 A Yes.

7 Q And so it was out of concern for Michael Swaine  
8 that you said all of those things about Jennifer that I read  
9 to you?

10 A Yes.

11 Q So you thought he would feel better if you made  
12 her look worse?

13 A That was not my intention, to make her look worse.  
14 It was my intention to help him get over the situation by  
15 realizing that he had to get on with his life, and that she  
16 would want him to.

17 Q So you were saying those things to make him feel  
18 better, but they were, in fact, actually true or you thought  
19 they were true?

20 A Yes.

21 Q The excerpts from the letters that I read to you,  
22 Mr. Beu asked you about those, and you basically, I take it,  
23 are indicating most of those are towards the start or maybe  
24 the middle of your relationship, not towards the end?

1960

C05408

AB018068

APPENDIX 001284

1 A Correct.

2 Q And that they don't reflect your true feelings  
3 towards Jennifer at the end of the relationship?

4 A That's true.

5 Q That basically, by August the 4th anyway, you  
6 didn't love her any more?

7 A I still loved her.

8 Q But it wasn't like it was before?

9 A I cared about her. I was hoping that she would go  
10 on with her life and be the sun in somebody's sky.

11 Q But she was not, at that point, any longer the  
12 passionate, obsessive, love of your life any more, was she?

13 A No, she was not.

14 Q But when you talked with Swaine, even as you were  
15 saying, "Dude, that woman dug into me with every f-ing ounce  
16 of sharp silver she had every single time she could," you  
17 then said, "And I still love her." Didn't you?

18 A Yes.

19 Q And in that same conversation, even as you were  
20 saying all these things about her, you still expressed to  
21 Mr. Swaine, "She was on my memory and she still makes me  
22 laugh. She still makes me cry. She still makes me hurt.  
23 She still makes me feel. She still makes me hungry. She is  
24 still inside me and always will be."?

1961

C05409

AB018069

APPENDIX 001285

1 A That is true.  
2 MR. SOUK: That's all.  
3 THE COURT: Any further redirect?  
4 MR. BEU: One question.  
5

6 FURTHER REDIRECT EXAMINATION  
7

8 BY MR. BEU:  
9

10 Q Alan, did you ever have a relationship with any  
11 other girl for as long as you did with Jennifer?

12 A Not until recently.

13 Q As of that point in time, you had not?

14 A Correct.

15 MR. BEU: That's all.

16 THE COURT: All right, you may step down.  
17

18 (WITNESS EXCUSED.)  
19

20 THE COURT: All right, additional evidence, Mr. Beu?

21 MR. BEU: No additional testimony, your Honor, just  
22 simply admission of exhibits.

23 THE COURT: Are you prepared to offer those at this  
24 time?

1962

C05410

AB018070

APPENDIX 001286