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APPENDIX A
District Court Register of Actions

Appendix A - District Court Register of Actions 2a

2/24/2020

<https://micourt.courts.michigan.gov/CaseSearch/Case/D50/Detail?searchText=Hughes + Kristopher&caseId=1670339FY&courtType=D&...>

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50th District Court - Pontiac

Case Detail

Criminal

Case ID: 1670339FY-FY

Judge of Record: MARTINEZ, MICHAEL C.

Year of Birth: 1979

Venue: CITY OF PONTIAC

PIN: 16-136337

Attorney: TAYLOR, RICHARD TERRELL

Offense Date: 8/6/2016

Balance: \$0.00

Next Hearing:

Court Location: 50TH PONTIAC

Name: HUGHES, KRISTOPHER, ALLEN

Case Status: CLOSED

Officer/Agency: TROY, STEVEN / HARVEY/G

Due Date: 9/20/2016

Date Filed: 8/17/2016

License Suspended:

Charges

Charge Count: 1

Current Charge: ROBBERY ARMED

Charge Level: F

Disposition Date: 9/20/2016

Original Charge: ROBBERY ARMED

Amended Or Reduced:

Disposition: EXAM CONDUCTED; DEFENDANT BOUND OVER

Court Actions

Action: ARRAIGNMENT HELD

Date: 8/17/2016

All Counts

Action: MISCELLANEOUS ACTION

Date: 8/25/2016

All Counts

Action: EXAMINATION HELD

Date: 9/20/2016

Count 1 ROBBERY ARMED

Action: MISCELLANEOUS ACTION

Date: 9/20/2016

All Counts

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2/24/2020

<https://micourt.courts.michigan.gov/CaseSearch/Case/D50/Detail?searchText=Hughes + Kristopher&caseId=1670339FY&courtType=D&...>

Sentencing

No sentencing found

Note: Civil, Traffic, Criminal, Domestic (Divorce/Family), Probate and Juvenile Traffic & Delinquency cases are available through this website depending on the type of court being searched. Neglect/Abuse cases will not be displayed.


Version: 1.5.0.0 (<https://mijis.courts.michigan.gov/hc/en-us/articles/115002867928>)

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APPENDIX B
Register of Actions

Court Explorer

 Register of Actions ← Go Back

Case Number
2016-260154-FC

Entitlement
PEOPLE vs. HUGHES KRISTOPHER ALLEN

Judge Name
HALA JARBOU

Case E-Filed
NO

Case Filed
09/20/2016

Case Disposed
03/01/2017

Date	Code	Desc
12/27/2017	NTC	NOTICE FILED REQ FOR FILE/COA
11/21/2017	PAY	PAYMNT SERV/ORD PYMNT OF CAA FILED
10/23/2017	NTC	NOTICE FILED FILE TRANSCRIPT/POS
10/23/2017	TRN	TRANSCRIPT FILED PRETRIAL 10/24/16
10/23/2017	TRN	TRANSCRIPT FILED MTN TO QUASH 11/2/16
10/23/2017	TRN	TRANSCRIPT FILED JURY TRIAL VOL 1 11/14/16
10/23/2017	TRN	TRANSCRIPT FILED JURY TRIAL VOL II 11/15/16
10/23/2017	TRN	TRANSCRIPT FILED JURY TRIAL VOL III OF IV 11/16/16
10/23/2017	TRN	TRANSCRIPT FILED MOTION TO REDUCE BOND 11/30/16
10/23/2017	TRN	TRANSCRIPT FILED JURY TRIAL VOL IV OF IV 11/17/16
10/23/2017	TRN	TRANSCRIPT FILED MOTION TO SUPPRESS 01/18/17
10/23/2017	TRN	TRANSCRIPT FILED JURY TRIAL VOL I OF IV 01/23/17
10/23/2017	TRN	TRANSCRIPT FILED JURY TRIAL VOL II OF IV 01/24/17

Date	Code	Desc
10/23/2017	TRN	TRANSCRIPT FILED JURY TRIAL VOL III OF IV 01/25/17
10/23/2017	TRN	TRANSCRIPT FILED JURY TRIAL VOL IV OF IV 01/26/17
07/24/2017	NTC	NOTICE FILED FILING TRANSCRIPT
07/24/2017	TRN	TRANSCRIPT FILED JURY TRIAL VOL I 02/27/17
07/24/2017	TRN	TRANSCRIPT FILED JURY TRIAL VOL II 02/28/17
07/24/2017	TRN	TRANSCRIPT FILED JURY TRIAL VOL III 03/01/17
07/07/2017	AAA	CLAIM OF APPEAL & ORDER APPT ATTY FILED
06/22/2017	LCA	LETTER FILED FROM CRT ADMIN
05/05/2017	CCR	CERTIF CT REPORTER FILED
04/18/2017	AAA	CLAIM OF APPEAL & ORDER APPT ATTY FILED
04/18/2017	NTA	NOTICE OF TIMELY APPEAL FILED
04/10/2017	ORD	ORDER FILED REMIT FUNDS
04/06/2017	PAY	PAYMNT SERV/ORD PYMNT OF CAA FILED
03/28/2017	JTS	JUDGMENT OF SENTENCE FILED
03/27/2017	S	SENTENCED ON: 03/27/17
03/27/2017		FOUND GUILTY ON: 03/01/17
03/27/2017		DEPARTMENT OF CORRECTIONS
03/27/2017	CHS	750.529 ARMED ROBBERY
03/27/2017		SENTENCED - CONVICTED BY JURY G
03/27/2017		MIN: 25 YEARS 0 MONTHS 0 DAYS
03/27/2017		MAX: 60 YEARS 0 MONTHS 0 DAYS
03/27/2017		BEGINNING 03/27/17
03/27/2017		CREDIT FOR 0 MONTHS 0 DAYS
03/27/2017		SENTENCE ENHANCED PURSUANT TO MCL 769.13 (4TH)
03/27/2017		PAY: RESTITUTION: \$4,270.00
03/27/2017		ATTORNEY FEES
03/27/2017	VRF	VICTIMS RIGHTS FEE \$130
03/27/2017	MSC	STATE MINIMUM COSTS OF \$68.00

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Date	Code	Desc
03/27/2017		OTHER: CONCURRENT SENTENCE TO 16-260213-FH; \$500 COU -
03/27/2017		RT COSTS
03/27/2017		(X) SENTENCE(S) TO BE SERVED CONSECUTIVELY TO:
03/27/2017		() EACH OTHER. () CASE NUMBERS (X) PAROLE.
03/27/2017		NO CONTACT WITH VICTIM(S).
03/27/2017	ES	END OF SENTENCE INFORMATION
03/27/2017	S	SENTENCE IN FRONT OF JUDGE JARBOU
03/03/2017	JI	JURY INSTRUCTIONS FILED
03/02/2017	JNF	JURY NOTES FILED
03/02/2017	JNF	JURY NOTES FILED
03/02/2017	JNF	JURY NOTES FILED
03/02/2017	JNF	JURY NOTES FILED
03/02/2017	JNF	JURY NOTES FILED
03/02/2017	VFF	VERDICT FORM FILED
03/02/2017	ORD	ORDER FILED REVOKE BOND
03/01/2017	JTE	JURY TRIAL ENDED 0.50
03/01/2017	FDJ	FINAL DISPOSITION WITH JURY GUILTY AS CHARGED
03/01/2017	OTH	PLED TO HAB 4TH
03/01/2017	M	MOTION REVOKE BOND - GRANTED
02/28/2017	JTC	JURY TRIAL CONTINUED DAY 1.00 CONTINUE TO 3/1/17
02/27/2017	JTB	JURY TRIAL BEGUN 0.50 CONT'D TO 2/28/17
02/21/2017	PAY	PAYMNT SERV/ORD PYMNT OF CAA FILED
01/27/2017	JI	JURY INSTRUCTIONS FILED
01/27/2017	JNF	JURY NOTES FILED
01/26/2017	JTE	JURY TRIAL ENDED 1.00
01/26/2017	MIS	MISTRIAL
01/26/2017	APR	DATE SET FOR TRIAL ON 02272017 08 30 AM Y 11

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Date	Code	Desc
01/25/2017	JTC	JURY TRIAL CONTINUED DAY 1.00 CONTINUE TO 1/26/2017
01/24/2017	JTC	JURY TRIAL CONTINUED DAY 1.00 CONTINUE TO 1/25/17
01/23/2017	JTB	JURY TRIAL BEGUN 0.50 CONTINUE TO 01/23/17
01/19/2017	PAY	PAYMNT SERV/ORD PYMNT OF CAA FILED
01/18/2017	DM	DEFENSE MOTION SUPPRESS IN COURT ID - DENIED
01/12/2017	PRF	PEOPLES RESP FILED TO MTN TO SUPPRESS IN COURT ID
01/12/2017	POS	AFFIDAVIT/PROOF OF SERVICE FILED
01/09/2017	MPR	MOTION PRAECIPE FILED FOR 01182017 JUDGE 11
01/05/2017	MTN	MOTION FILED SUPPRESS IN COURT ID
01/04/2017	MPR	MOTION PRAECIPE FILED FOR 01112017 JUDGE 11
12/01/2016	ORD	ORDER FILED MOD BOND/NO CONTACT
11/30/2016	DM	DEFENSE MOTION MODIFY BOND - GRANTED
11/30/2016	POS	AFFIDAVIT/PROOF OF SERVICE FILED
11/29/2016	PRF	PEOPLES RESP FILED IN OPP OF MTN TO MOD BOND
11/23/2016	MPR	MOTION PRAECIPE FILED FOR 11302016 JUDGE 11
11/23/2016	MTN	MOTION FILED TO MOD BOND
11/17/2016	JTE	JURY TRIAL ENDED 0.50
11/17/2016	MIS	MISTRIAL
11/17/2016	APR	DATE SET FOR TRIAL ON 01232017 08 30 AM Y 11
11/17/2016	JL	JURY INSTRUCTIONS FILED
11/17/2016	JNF	JURY NOTES FILED
11/16/2016	JTC	JURY TRIAL CONTINUED DAY 1.00 CONTINUE TO 11/17/16
11/15/2016	JTC	JURY TRIAL CONTINUED DAY 1.00 CONTINUE TO 11/16/2016
11/14/2016	JTB	JURY TRIAL BEGUN 0.50 CONTINUE TO 11/15/16
11/02/2016	DM	DEFENSE MOTION QUASH - DENIED

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Date	Code	Desc
11/02/2016	ORD	ORDER FILED DENY MTN TO QUASH GIF
10/31/2016	PRF	PEOPLES RESP FILED TO MTN TO QUASH
10/31/2016	BRF	BRIEF FILED OPPOSE MTN TO QUASH
10/31/2016	POS	AFFIDAVIT/PROOF OF SERVICE FILED
10/26/2016	MTN	MOTION FILED TO QUASH GIF/NOH
10/26/2016	BRF	BRIEF FILED SUPPT MTN TO QUASH
10/25/2016	MPR	MOTION PRAECIPE FILED FOR 11022016 JUDGE 11
10/25/2016	GIF	GEN INFO FILED 1ST AMD
10/24/2016	PTH	PRE-TRIAL HELD ON THE RECORD
10/05/2016	REQ	REQUEST FILED FOR DISCOVERY
10/05/2016	POS	AFFIDAVIT/PROOF OF SERVICE FILED
10/04/2016	APR	DATE SET FOR PRETRIAL ON 10242016 01 00 PM Y 11
10/04/2016	APR	DATE SET FOR TRIAL ON 11142016 08 30 AM Y 11
10/03/2016	TRN	TRANSCRIPT FILED PRELIM/09/20/16
10/03/2016	ARR	ARRAIGNMENT IN COURT
09/29/2016	DCR	DISTRICT COURT RETURN FILED
09/29/2016	GIF	GEN INFO FILED
09/23/2016	NSE	NOTICE SEEK SENTENCE ENHANCEMENT FILED 4TH
09/22/2016	O	REQUEST FOR ATTORNEY/REIMBURSEMENT FILED
09/21/2016	N	NTC CT ADMN FILED
09/20/2016	N	NOTICE FROM COURT ADMINISTRATOR FILED
09/20/2016	A	PROSECUTORS ORDER 16-37328
09/20/2016		ARRESTING AGENCY: OAKLAND COUNTY SHERIFF'S DEPT.
09/20/2016		50 DISTRICT COURT 1670339FY
09/20/2016	CTN	CENTRAL TRACT 63-16-037328-01
09/20/2016	SID	STATE ID 1866313J
09/20/2016	DOF	DATE OF OFFENSE 08/06/16
09/20/2016	CCA	ARRAIGNMENT - MON, 10032016 AT 0100PM

Date	Code	Desc
09/20/2016	DCX	EXAM FOR 09/20/16 HAD
09/20/2016	DOB	BIRTH YEAR - 79
09/20/2016	CHG	750.529 ARMED ROBBERY
09/20/2016		BOUND OVER AS CHARGED
09/20/2016	COB	CONDITIONS ON BOND
09/20/2016	BON	BOND POSTED BY: NOT FURNISHED
09/20/2016		CITY UNKNOWN
09/20/2016		TYPE: CASH/SURETY
09/20/2016		AMOUNT: \$100,000
09/20/2016	APR	DATE SET FOR ARRAIGNMEN ON 10032016 01 00 PM Y

Court Explorer

 Parties

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Case Number
2016-260154-FC

Entitlement
PEOPLE vs. HUGHES KRISTOPHER ALLEN

Judge Name
HALA JARBOU

Case E-Filed
NO

Case Filed
09/20/2016

Case Disposed
03/01/2017

Party Type	Party name	Bar #	Attorney
Plaintiff - 0001	PEOPLE	23242	JESSICA R.,COOPER,
Defendant - 0002	NONE	48673	GARY D.,STRAUSS,
Defendant - 0001	HUGHES KRISTOPHER ALLEN	55237	RICHARD TERRELL,TAYLOR,

APPENDIX C
District Court Register of Actions
Plea Case

Appendix C - District Court Register of Actions (Plea Case) 13a

2/24/2020

<https://micourt.courts.michigan.gov/CaseSearch/Case/D50/Detail?searchText=Hughes + Kristopher&caseId=1670336FY&courtType=D&...>

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50th District Court - Pontiac

Case Detail

Criminal

Case ID: 1670336FY-FY

Judge of Record: MARTINEZ, MICHAEL C.

Year of Birth: 1979

Venue: CITY OF PONTIAC

PIN: 16-140555

Attorney: TAYLOR, RICHARD TERRELL

Offense Date: 8/12/2016

Balance: \$0.00

Next Hearing:

Court Location: 50TH PONTIAC

Name: HUGHES, KRISTOPHER, ALLEN

Case Status: CLOSED

Officer/Agency: GORMAN, MATTHEW / WITTERBORT

Due Date: 12/6/2016

Date Filed: 8/16/2016

License Suspended:

Charges

Charge Count: 1

Current Charge: CONTROLLED SUBSTANCE

DELIVER/MANUFACTURE(NARC/COCAINE) <50 GR

Disposition: EXAM CONDUCTED; DEFENDANT BOUND OVER
Disposition Date: 12/6/2016

Original Charge: CONTROLLED SUBSTANCE

DELIVER/MANUFACTURE(NARC/COCAINE) <50 GR

Amended Or Reduced:

Charge Level: F

Charge Count: 2

Current Charge: CONTROLLED SUBSTANCE

DELIVER/MANUFACTURE(NARC/COCAINE) <50 GR

Disposition: EXAM CONDUCTED; DEFENDANT BOUND OVER
Disposition Date: 12/6/2016

Original Charge: CONTROLLED SUBSTANCE

DELIVER/MANUFACTURE(NARC/COCAINE) <50 GR

Amended Or Reduced: Amended

Charge Level: F

Charge Count: 3

Current Charge: CONTROLLED SUBSTANCE-2ND-

DOUBLE PEN.HIGH MISDEMEANOR

Disposition: EXAM CONDUCTED; DEFENDANT BOUND OVER
Disposition Date: 12/6/2016

Original Charge: CONTROLLED SUBSTANCE-2ND-

DOUBLE PEN.HIGH MISDEMEANOR

Amended Or Reduced:

Charge Level: F

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Appendix C - District Court Register of Actions (Plea Case) 14a

2/24/2020

<https://micourt.courts.michigan.gov/CaseSearch/Case/D50/Detail?searchText=Hughes + Kristopher&caseId=1670336FY&courtType=D&...>

Charge Count: 4

Original Charge: POSSESS CONT SUBSTANCE
ANALOGUE OR PRESCRIPTION FORM

Current Charge: POSSESS CONT SUBSTANCE
ANALOGUE OR PRESCRIPTION FORM

Amended Or Reduced:

Charge Level: F

Disposition: EXAM CONDUCTED; DEFENDANT BOUND OVER
Disposition Date: 12/6/2016

Charge Count: 5

Original Charge: POSSESS CONT SUBSTANCE
ANALOGUE OR PRESCRIPTION FORM

Current Charge: POSSESS CONT SUBSTANCE
ANALOGUE OR PRESCRIPTION FORM

Amended Or Reduced:

Charge Level: F

Disposition: EXAM CONDUCTED; DEFENDANT BOUND OVER
Disposition Date: 12/6/2016

Charge Count: 6

Original Charge: POSSESS CONT SUBSTANCE
ANALOGUE OR PRESCRIPTION FORM

Current Charge: CONTROLLED SUBSTANCE
DELIVER/MANUFACTURE(NARC/COCAINE) <50 GR

Amended Or Reduced: Amended

Charge Level: F

Disposition: EXAM CONDUCTED; DEFENDANT BOUND OVER
Disposition Date: 12/6/2016

Court Actions

Action: ARRAIGNMENT HELD
All Counts

Date: 8/17/2016

Action: PROCEEDING HEARD
All Counts

Date: 8/25/2016

Action: MISCELLANEOUS ACTION
Count 6 CONTROLLED SUBSTANCE
DELIVER/MANUFACTURE(NARC/COCAINE) <50 GR

Date: 9/20/2016

Action: EXAMINATION HELD
All Counts

Date: 9/20/2016

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Appendix C - District Court Register of Actions (Plea Case) 15a

2/24/2020

<https://micourt.courts.michigan.gov/CaseSearch/Case/D50/Detail?searchText=Hughes + Kristopher&caseId=1670336FY&courtType=D&...>

Action: MISCELLANEOUS ACTION

Date: 9/20/2016

Count 5 POSSESS CONT SUBSTANCE ANALOGUE OR
PRESCRIPTION FORM

Action: MISCELLANEOUS ACTION

Date: 9/20/2016

Count 4 POSSESS CONT SUBSTANCE ANALOGUE OR
PRESCRIPTION FORM

Action: MISCELLANEOUS ACTION

Date: 9/29/2016

All Counts

Action: MISCELLANEOUS ACTION

Date: 11/7/2016

All Counts

Action: MISCELLANEOUS ACTION

Date: 11/17/2016

Count 2 CONTROLLED SUBSTANCE
DELIVER/MANUFACTURE(NARC/COCAINE) <50 GR

Action: MISCELLANEOUS ACTION

Date: 11/17/2016

Count 5 POSSESS CONT SUBSTANCE ANALOGUE OR
PRESCRIPTION FORM

Action: MISCELLANEOUS ACTION

Date: 11/17/2016

Count 4 POSSESS CONT SUBSTANCE ANALOGUE OR
PRESCRIPTION FORM

Action: MISCELLANEOUS ACTION

Date: 11/17/2016

Count 1 CONTROLLED SUBSTANCE
DELIVER/MANUFACTURE(NARC/COCAINE) <50 GR

Action: PROCEEDING HEARD

Date: 11/17/2016

All Counts

Action: REMANDED FROM CIRCUIT COURT TO
DISTRICT COURT

Date: 11/17/2016

All Counts

Action: MISCELLANEOUS ACTION

Date: 11/17/2016

Count 3 CONTROLLED SUBSTANCE-2ND-DOUBLE
PEN.HIGH MISDEMEANOR

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Appendix C - District Court Register of Actions (Plea Case) 16a

2/24/2020

<https://micourt.courts.michigan.gov/CaseSearch/Case/D50/Detail?searchText=Hughes + Kristopher&caseId=1670336FY&courtType=D&...>**Action:** MISCELLANEOUS ACTION**Date:** 12/6/2016Count 6 CONTROLLED SUBSTANCE
DELIVER/MANUFACTURE(NARC/COCAINE) <50 GR**Action:** EXAMINATION HELD**Date:** 12/6/2016

All Counts

Action: MISCELLANEOUS ACTION**Date:** 12/6/2016Count 2 CONTROLLED SUBSTANCE
DELIVER/MANUFACTURE(NARC/COCAINE) <50 GR**Action:** MISCELLANEOUS ACTION**Date:** 12/6/2016

All Counts

Action: EXAMINATION HELD**Date:** 12/6/2016Count 6 CONTROLLED SUBSTANCE
DELIVER/MANUFACTURE(NARC/COCAINE) <50 GR

Sentencing

No sentencing found

Note: Civil, Traffic, Criminal, Domestic (Divorce/Family), Probate and Juvenile Traffic & Delinquency cases are available through this website depending on the type of court being searched. Neglect/Abuse cases will not be displayed.

Version: 1.5.0.0 (<https://mijis.courts.michigan.gov/hc/en-us/articles/115002867928>)

APPENDIX D
Register of Actions
Plea Case

Appendix D - Register of Actions (Plea Case) 18a

Page: 1 Document Name: untitled

JCC040-2	OAKLAND COUNTY CLERKS OFFICE - LISA BROWN	04/26/17
PAGE NO: 001 OF 011	DOCKET DISPLAY - IMAGE RETRIEVAL	12:11:58
NEXT PAGE: 002		ACT: 09/23/2016
		DISP: 02/02/2017
CASE NO: 2016 260213 FH	PEOPLE	ATTY: JESSICA R. COOPER
	VS	
JUDGE: HALA JARBOU	HUGHES, KRISTOPHER, ALLEN,	TAYLOR, RICHARD TERR
BO 09/23/2016 NOTICE FROM COURT ADMINISTRATOR FILED		N
BO 09/23/2016 PROSECUTORS ORDER 16-37317		A
BO 09/23/2016 ARRESTING AGENCY: OAKLAND COUNTY SHERIFF'S DEPT.		
BO 09/23/2016 50 DISTRICT COURT 1670336FY		
BO 09/23/2016 CENTRAL TRACT 63-16-037317-01		CTN
BO 09/23/2016 STATE ID 1866313J		SID
BO 09/23/2016 DATE OF OFFENSE 08/12/16		DOF
BO 09/23/2016 ARRAIGNMENT - MON, 10032016 AT 0100PM		CCA
BO 09/23/2016 EXAM FOR 09/20/16 HAD		DCX
BO 09/23/2016 DATE OF BIRTH: 050979		DOB
BO 09/23/2016 333.74012A4 C/S DEL/MAN LESS 50GRAMS		CHG
BO 09/23/2016 BOUND OVER AS CHARGED		

ENTER KEY FOR NEXT PAGE, OR ENTER REQUESTED PAGE NO.
 ATTYS(Y): FEES(Y):
 MORE RECORDS TO DISPLAY, ENTER KEY TO CONTINUE

Date: 4/26/2017 Time: 12:13:16 PM

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Appendix D - Register of Actions (Plea Case) 19a

Page: 1 Document Name: untitled

JCC040-2	OAKLAND COUNTY CLERKS OFFICE - LISA BROWN	04/26/17
PAGE NO: 002 OF 011	DOCKET DISPLAY - IMAGE RETRIEVAL	12:12:04
NEXT PAGE: 003		ACT: 09/23/2016
		DISP: 02/02/2017
CASE NO: 2016 260213 FH	PEOPLE	ATTY: JESSICA R. COOPER
	VS	
JUDGE: HALA JARBOU	HUGHES, KRISTOPHER, ALLEN,	TAYLOR, RICHARD TERR
BO 09/23/2016 333.74012A4	C/S DEL/MAN LESS 50GRAMS	CHG
BO 09/23/2016	BOUND OVER AS CHARGED	
BO 09/23/2016 333.74132-B	CONT. SUB. 2ND DBL PEN. HI MIS	CHG
BO 09/23/2016	BOUND OVER AS CHARGED	
BO 09/23/2016 333.74032B-A	POSSESS. OF C/S	CHG
BO 09/23/2016	BOUND OVER AS CHARGED	
BO 09/23/2016 333.74032B-A	POSSESS. OF C/S	CHG
BO 09/23/2016	BOUND OVER AS CHARGED	
BO 09/23/2016 333.74032B-A	POSSESS. OF C/S	CHG
BO 09/23/2016	BOUND OVER AS CHARGED	
BO 09/23/2016	BOND POSTED BY: NOT FURNISHED	BON
BO 09/23/2016	CITY UNKNOWN	

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 ATTYS(Y): FEES(Y):
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Appendix D - Register of Actions (Plea Case) 20a

Page: 1 Document Name: untitled

JCC040-2	OAKLAND COUNTY CLERKS OFFICE - LISA BROWN	04/26/17
PAGE NO: 003 OF 011	DOCKET DISPLAY - IMAGE RETRIEVAL	12:12:07
NEXT PAGE: 004		ACT: 09/23/2016
		DISP: 02/02/2017
CASE NO: 2016 260213 FH	PEOPLE	ATTY: JESSICA R. COOPER
	VS	
JUDGE: HALA JARBOU	HUGHES, KRISTOPHER, ALLEN,	TAYLOR, RICHARD TERR
BO 09/23/2016	TYPE: CASH/SURETY	
BO 09/23/2016	AMOUNT: \$100,000	
00 09/23/2016	DATE SET FOR ARRAIGNMEN ON 10032016 01 00 PM Y 11	APR
09/26/2016	NTC CT ADMN FILED	N
09/29/2016	REQUEST FOR ATTORNEY/REIMBURSEMENT FILED	O
10/03/2016	GEN INFO FILED	GIF
11 10/03/2016	ARRAIGNMENT IN COURT	ARR
11 10/03/2016	RECORDED UNDER 16-260154-FC	OTH
00 10/04/2016	DATE SET FOR PRETRIAL ON 10242016 01 00 PM Y 11	APR
00 10/04/2016	DATE SET FOR TRIAL ON 11142016 08 30 AM Y 11	APR
10/04/2016	NOTICE SEEK SENTENCE ENHANCEMENT FILED 4TH	NSE
10/07/2016	DEMAND FOR DISCOVERY FILED	OTH

ENTER KEY FOR NEXT PAGE, OR ENTER REQUESTED PAGE NO.
 ATTYS.(Y): FEES(Y):
 MORE RECORDS TO DISPLAY, ENTER KEY TO CONTINUE

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Appendix D - Register of Actions (Plea Case) 21a

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Page: 1 Document Name: untitled

JCC040-2	OAKLAND COUNTY CLERKS OFFICE - LISA BROWN	04/26/17
PAGE NO: 004 OF 011	DOCKET DISPLAY - IMAGE RETRIEVAL	12:12:10
NEXT PAGE: 005		ACT: 09/23/2016
		DISP: 02/02/2017
CASE NO: 2016 260213 FH	PEOPLE	ATTY: JESSICA R. COOPER
	VS	
JUDGE: HALA JARBOU	HUGHES, KRISTOPHER, ALLEN,	TAYLOR, RICHARD TERR
-	10/07/2016 AFFIDAVIT/PROOF OF SERVICE FILED	POS
-	10/07/2016 DISTRICT COURT RETURN FILED	DCR
-	10/11/2016 AFFIDAVIT/PROOF OF SERVICE FILED	POS
-	10/21/2016 TRANSCRIPT FILED PRELIM/09/20/16	TRN
11	10/24/2016 PRE-TRIAL HELD ON THE RECORD	PTH
11	10/24/2016 RECORDED UNDER 16-260154-FC	OTH
11	10/24/2016 FINAL DISPOSITION	FD
11	10/24/2016 REMANDED 50TH DISTRICT COURT	REM
-	10/28/2016 ORDER OF REMAND FILED /SENT TO 50TH DC/DM	RMD
-	11/18/2016 AFFIDAVIT/PROOF OF SERVICE FILED	POS
BO	12/06/2016 CASE RETURNED FROM DISTRICT COURT	CRD
BO	12/06/2016 ARRAIGNMENT - MON, 12192016 AT 0100PM	CCA

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JCC040-2	OAKLAND COUNTY CLERKS OFFICE - LISA BROWN	04/26/17
PAGE NO: 005 OF 011	DOCKET DISPLAY - IMAGE RETRIEVAL	12:12:13
NEXT PAGE: 006		ACT: 09/23/2016
		DISP: 02/02/2017
CASE NO: 2016 260213 FH	PEOPLE	ATTY: JESSICA R. COOPER
	VS	
JUDGE: HALA JARBOU	HUGHES, KRISTOPHER, ALLEN,	TAYLOR, RICHARD TERR
00 12/06/2016	DATE SET FOR ARRAIGNMEN ON 12192016 01 00 PM Y	APR
00 12/07/2016	FINAL DISPOSITION ERROR	FDE
00 12/07/2016	REINSTATED /DM	R
12/07/2016	RETURN FROM DIST CRT FILED	RFD
12/14/2016	DISTRICT COURT RETURN FILED	DCR
11 12/19/2016	ARRAIGNMENT IN COURT	ARR
00 12/20/2016	DATE SET FOR TRIAL ON 02062017 08 30 AM Y 11	APR
12/21/2016	GEN INFO FILED	GIF
01/12/2017	GEN INFO FILED 1ST AMD	GIF
01/13/2017	AFFIDAVIT/PROOF OF SERVICE FILED	POS
11 02/02/2017	FINAL DISPOSITION	FD
11 02/02/2017	PLEA NO CONTEST	PLE

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Appendix D - Register of Actions (Plea Case) 23a

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JCC040-2 OAKLAND COUNTY CLERKS OFFICE - LISA BROWN 04/26/17
PAGE NO: 006 OF 011 DOCKET DISPLAY - IMAGE RETRIEVAL 12:12:16
NEXT PAGE: 007 ACT: 09/23/2016
DISP: 02/02/2017
CASE NO: 2016 260213 FH PEOPLE ATTY: JESSICA R. COOPER
VS
JUDGE: HALA JARBOU HUGHES, KRISTOPHER, ALLEN, TAYLOR, RICHARD TERR
00 02/02/2017 DATE SET FOR SENTENCE ON 03062017 01 00 PM Y 11 APR
11 02/02/2017 PRE-TRIAL HELD ON THE RECORD PTH
02/02/2017 PEOPLES EXHIBIT NO.1 FILED PEX
- 00 03/01/2017 ADJOURN FOR INVESTIGATION/DISCOVERY AID
00 03/01/2017 ADJ-COUNSEL 03062017 TO 03272017 BY NOTICE APC
00 03/01/2017 DATE SET FOR SENTENCE ON 03272017 01 00 PM Y 11 APR
- 03/02/2017 AFFIDAVIT/PROOF OF SERVICE FILED POS
JS 03/27/2017 SENTENCED ON: 03/27/17 S
JS 03/27/2017 FOUND GUILTY ON: 02/02/17
JS 03/27/2017 DEPARTMENT OF CORRECTIONS
JS 03/27/2017 333.74012A4 C/S DEL/MAN LESS 50GRAMS CHS
JS 03/27/2017 SENTENCED - CONVICTED BY PLEA NC

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Page: 1 Document Name: untitled

JCC040-2	OAKLAND COUNTY CLERKS OFFICE - LISA BROWN	04/26/17
PAGE NO: 007 OF 011	DOCKET DISPLAY - IMAGE RETRIEVAL	12:12:19
NEXT PAGE: 008		ACT: 09/23/2016
		DISP: 02/02/2017
CASE NO: 2016 260213 FH	PEOPLE	ATTY: JESSICA R. COOPER
	VS	
JUDGE: HALA JARBOU	HUGHES, KRISTOPHER, ALLEN,	TAYLOR, RICHARD TERR
JS 03/27/2017	MIN: 3 YEARS 0 MONTHS 0 DAYS	
JS 03/27/2017	MAX: 30 YEARS 0 MONTHS 0 DAYS	
JS 03/27/2017	BEGINNING 03/27/17	
JS 03/27/2017	CREDIT FOR 0 MONTHS 0 DAYS	
JS 03/27/2017 333.74012A4	C/S DEL/MAN LESS 50GRAMS	CHS
JS 03/27/2017	SENTENCED - CONVICTED BY PLEA NC	
JS 03/27/2017	MIN: 3 YEARS 0 MONTHS 0 DAYS	
JS 03/27/2017	MAX: 30 YEARS 0 MONTHS 0 DAYS	
JS 03/27/2017	BEGINNING 03/27/17	
JS 03/27/2017	CREDIT FOR 0 MONTHS 0 DAYS	
JS 03/27/2017 333.74132-B	CONT. SUB. 2ND DBL PEN. HI MIS	CHS
JS 03/27/2017	SENTENCED - CONVICTED BY PLEA NC	

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Appendix D - Register of Actions (Plea Case) 25a

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Page: 1 Document Name: untitled

JCC040-2	OAKLAND COUNTY CLERKS OFFICE - LISA BROWN	04/26/17
PAGE'NO: 008 OF 011	DOCKET DISPLAY - IMAGE RETRIEVAL	12:12:21
NEXT PAGE: 009		ACT: 09/23/2016
		DISP: 02/02/2017
CASE NO: 2016 260213 FH	PEOPLE	ATTY: JESSICA R. COOPER
	VS	
JUDGE: HALA JARBOU	HUGHES, KRISTOPHER, ALLEN,	TAYLOR, RICHARD TERR
JS 03/27/2017	MIN: 1 YEARS 0 MONTHS 0 DAYS	
JS 03/27/2017	MAX: 2 YEARS 0 MONTHS 0 DAYS	
JS 03/27/2017	BEGINNING 03/27/17	
JS 03/27/2017	CREDIT FOR 0 MONTHS 0 DAYS	
JS 03/27/2017 333.74032B-A	POSSESS. OF C/S	CHS
JS 03/27/2017	SENTENCED - CONVICTED BY PLEA NC	
JS 03/27/2017	MIN: 2 YEARS 0 MONTHS 0 DAYS	
JS 03/27/2017	MAX: 15 YEARS 0 MONTHS 0 DAYS	
JS 03/27/2017	BEGINNING 03/27/17	
JS 03/27/2017	CREDIT FOR 0 MONTHS 0 DAYS	
JS 03/27/2017 333.74032B-A	POSSESS. OF C/S	CHS
JS 03/27/2017	SENTENCED - CONVICTED BY PLEA NC	

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Appendix D - Register of Actions (Plea Case) 26a

Page: 1 Document Name: untitled

JCC040-2 OAKLAND COUNTY CLERKS OFFICE - LISA BROWN 04/26/17
PAGE NO: 009 OF 011 DOCKET DISPLAY - IMAGE RETRIEVAL 12:12:25
NEXT PAGE: 010 ACT: 09/23/2016
DISP: 02/02/2017
CASE NO: 2016 260213 FH PEOPLE ATTY: JESSICA R. COOPER
VS
JUDGE: HALA JARBOU HUGHES, KRISTOPHER, ALLEN, TAYLOR, RICHARD TERR
JS 03/27/2017 MIN: 2 YEARS 0 MONTHS 0 DAYS
JS 03/27/2017 MAX: 15 YEARS 0 MONTHS 0 DAYS
JS 03/27/2017 BEGINNING 03/27/17
JS 03/27/2017 CREDIT FOR 0 MONTHS 0 DAYS
JS 03/27/2017 333.74012B-A C/S-DEL/MANF (N/NARC) CHS
JS 03/27/2017 SENTENCED - CONVICTED BY PLEA NC
JS 03/27/2017 MIN: 3 YEARS 0 MONTHS 0 DAYS
JS 03/27/2017 MAX: 30 YEARS 0 MONTHS 0 DAYS
JS 03/27/2017 BEGINNING 03/27/17
JS 03/27/2017 CREDIT FOR 0 MONTHS 0 DAYS
JS 03/27/2017 SENTENCE ENHANCED PURSUANT TO MCL 769.13(4TH)
JS 03/27/2017 ATTORNEY FEES

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JCC040-2	OAKLAND COUNTY CLERKS OFFICE - LISA BROWN	04/26/17
PAGE NO: 010 OF 011	DOCKET DISPLAY - IMAGE RETRIEVAL	12:12:28
NEXT PAGE: 011		ACT: 09/23/2016
		DISP: 02/02/2017
CASE NO: 2016 260213 FH	PEOPLE	ATTY: JESSICA R. COOPER
	VS	
JUDGE: HALA JARBOU	HUGHES, KRISTOPHER, ALLEN,	TAYLOR, RICHARD TERR
JS 03/27/2017	VICTIMS RIGHTS FEE \$130	VRF
JS 03/27/2017	STATE MINIMUM COSTS OF \$340.00	MSC
JS 03/27/2017	OTHER: \$500 COURT COSTS; ALL COUNTS CONCURRENT TO EA	-
JS 03/27/2017	CH OTHER	
JS 03/27/2017	CONCURRENT TO 16-260154-FC	
JS 03/27/2017	(X) SENTENCE(S) TO BE SERVED CONSECUTIVELY TO:	
JS 03/27/2017	() EACH OTHER. () CASE NUMBERS (X) PAROLE.	
JS 03/27/2017	END OF SENTENCE INFORMATION	ES
11 03/27/2017	SENTENCE IN FRONT OF JUDGE JARBOU	S
11 03/27/2017	REC. UNDER 16-260154-FC	OTH
- 03/28/2017	JUDGMENT OF SENTENCE FILED	JTS
- 04/05/2017	PAYMNT SERV/ORD PYMNT OF CAA FILED	PAY

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JCC040-2 OAKLAND COUNTY CLERKS OFFICE - LISA BROWN 04/26/17
PAGE NO: 011 OF 011 DOCKET DISPLAY - IMAGE RETRIEVAL 12:12:31
NEXT PAGE: 01 ACT: 09/23/2016
DISP: 02/02/2017
CASE NO: 2016 260213 FH PEOPLE ATTY: JESSICA R. COOPER
VS
JUDGE: HALA JARBOU HUGHES, KRISTOPHER, ALLEN, TAYLOR, RICHARD TERR
- 04/10/2017 ORDER FILED REMIT FUNDS ORD
- 04/19/2017 ORDER COURT APPOINTED ATTORNEY FILED CAA
- 04/19/2017 NOTICE OF TIMELY APPEAL FILED NTA
LAST OF CASE DATA

ENTER KEY FOR NEXT PAGE, OR ENTER REQUESTED PAGE NO.
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ALL RECORDS HAVE BEEN DISPLAYED FOR THIS CASE

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APPENDIX E
Search Warrant
August 12, 2016

APPENDIX 2

STATE OF MICHIGAN }

S.S. SEARCH WARRANT

COUNTY OF OAKLAND }

TO THE SHERIFF OR ANY PEACE OFFICER OF SAID COUNTY:

THE ATTACHED AFFIDAVIT, having been sworn to by the affiant, Detective Matthew Gorman, before me this day, based upon facts stated therein, probable cause having been found in the name of the people of the State of Michigan, I command that you enter the following described places and vehicles:

All rooms, compartments, spaces and any attic or basement, attached garages, detached garages and all areas within the curtilage of the home; including vehicles, shrubs, trees, gardens, greenery, wood piles, and dog pens accessible there from;

Any and all rooms, spaces, compartments, safes, persons, vehicles, out-buildings and curtilage located in or at the residential dwelling located at 45 W. Beverly Ave, City of Pontiac, County of Oakland, State of Michigan – single story family dwelling, located on the south side of W Beverly AVE and the west of Baldwin Ave, the front door faces east. The residence consists of tan siding with tan trim, the numbers “45” are located on the siding to the east of the front door.

Any and all rooms, spaces, compartments, safes, persons, vehicles, out-buildings and curtilage located in or at the residential dwelling located at 433 Franklin, City of Pontiac, County of Oakland, State of Michigan –single story family dwelling, located on the east side of Franklin St, south of Nevada Ave and the north of Nebraska St, the front door faces west. The residence consists of tan siding with brown trim, the numbers “433” are located on a white mailbox attached to the south side of the front door.

Any and all rooms, spaces, compartments, safes, persons, vehicles, out-buildings and curtilage located in or at the residential dwelling located at 106 N. Tasmania, City of Pontiac, County of Oakland, State of Michigan –single story family dwelling, located on the north /west corner of N. Tasmania and Michigan Ave, the front door faces west onto N. Tasmania. The residence consists of tan/brown brick with white trim, the numbers “106” are located on a white pillar attached to the south side of the front porch.

It is further ordered that a vehicle, 2001 GMC, black in color, bearing MI license plate of DNC9190 be searched.

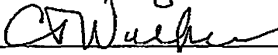
It is further ordered that any cell phones or computers or other devices capable of digital or electronic storage seized by authority of this search warrant shall be permitted to be forensically searched and or manually searched, and any data that is able to be retrieved there from shall be preserved and recorded.

Therein to search for, seize, secure, tabulate and make return according to law, the following property and things:

Crack Cocaine, and any other illegally possessed controlled substances; any raw material, product, equipment or drug paraphernalia for the compounding, cutting, exporting, importing, manufacturing, packaging, processing, storage, use or weighing of any controlled substance; proofs of residence, such as but not limited to, utility bills, correspondence, rent receipts, and keys to the premises; proofs as to the identity of unknown suspects such as but not limited to, photographs, certificates, and/or diplomas; prerecorded, illegal drug proceeds and any records pertaining to the receipt, possession and sale or distribution of controlled substances including but not limited to documents, video tapes, computer disks, computer hard drives, and computer peripherals; other mail receipts, containers or wrappers; currency, property obtained through illegal activity, financial instruments, safety deposit box keys, money order receipts, bank statements and related records; firearms, ammunition, and all occupants found inside.

APPENDIX 2

ISSUED UNDER MY HAND THIS 11th DAY OF August 2016 Time: 2:30^{pm}



Judge in and for the 50th District Court,

County of Oakland, State of Michigan.

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APPENDIX 2

AFFIDAVIT FOR SEARCH WARRANT

Detective Matthew Gorman, states that:

1. The person, place, or thing to be searched is described as and is located at the following location:

SEARCH WARRANT LOCATIONS:

All rooms, compartments, spaces and any attic or basement, attached garages, detached garages and all areas within the curtilage of the home; including vehicles, shrubs, trees, gardens, greenery, wood piles, and dog pens accessible there from; this day, based upon facts stated therein, probable cause having been found in the name of the people of the State of Michigan, request to enter the following described places and vehicles:

Any and all rooms, spaces, compartments, safes, persons, vehicles, out-buildings and curtilage located in or at the residential dwelling located at 45 W. Beverly Ave, City of Pontiac, County of Oakland, State of Michigan –single story family dwelling, located on the south side of W Beverly Ave. and the west of Baldwin Ave, the front door faces east. The residence consists of tan siding with tan trim; the numbers “45” are located on the siding to the east of the front door.

Any and all rooms, spaces, compartments, safes, persons, vehicles, out-buildings and curtilage located in or at the residential dwelling located at 433 Franklin, City of Pontiac, County of Oakland, State of Michigan – single story family dwelling, located on the east side of Franklin St, south of Nevada Ave and the north of Nebraska St, the front door faces west. The residence consists of tan siding with brown trim, the numbers “433” are located on a white mailbox attached to the south side of the front door.

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It is further requested that a vehicle, 2001 GMC, black in color, bearing MI license plate of DNC9190 be searched.

It is further requested to search any cell phones or computers or other devices capable of digital or electronic storage seized by authority of this search warrant shall be forensically and/or manually searched and any data that is able to be retrieved there from shall be preserved and recorded.

2. The property to be searched for and seized, if found, is specifically described as:

All substances being in violation of the Michigan Public Health Code, specifically, but not limited to crack cocaine. Materials and equipment for manufacturing/handling said controlled substances, scales and weighing equipment for controlled substances, lists and records pertaining to the manufacture, possession, ownership, and/or sales of controlled substances, lists and records of possession and/or ownership and/or residency of the above place to be searched, guns and ammunition, currency and coins, computers, cell phones, telephone answering machines and tapes,

APPENDIX 2

police monitoring equipment, and other items which are proceeds or items which were purchased with the proceeds of the sale of controlled substances. Also to be seized are business, tax, travel and/or financial records.

3. The facts establishing probable cause for the search are:

DETECTIVE BACKGROUND

- a. Affiant is a police officer for the city of Rochester, Rochester City Police Department. Affiant has been assigned to the Oakland County Sheriff's Office Narcotics Enforcement Team for the past nine months and has been employed as a law enforcement officer for the past eight years seven months. Affiant has successfully completed a basic drug investigations course, an advanced roadside interview for drug interdiction, DEA Undercover narcotics school, and advanced undercover narcotics workshop. Affiant has completed the MCOLES basic police academy in Kalamazoo and received an associates degree in Law Enforcement from Kalamazoo Valley Community College. I have been involved in numerous executions of search warrants which resulted in the seizure of controlled substances, cutting material, narcotics growing material, packaging equipment and materials, drug paraphernalia, weighing instruments, narcotic tabulations, electronic communication and telephone codes, maps, and documentary evidence relating to drug trafficking activities. I have also utilized confidential informants, and have been involved in undercover purchases of controlled substances from drug traffickers. I have also been involved in field testing, weighing, and the identification of controlled substances. I know the following to be true, from personal investigation and from information provided to me from fellow investigators/police reports.
- b. Based upon my training and experience involving the concealment of funds and assets from the detection of governmental agencies, I know that drug traffickers maintain books, records, receipts, notes, ledgers and other papers relating to the procurement, distribution, storage, and transportation of controlled substances. These documents include, but are not limited to, records

APPENDIX 2

showing the phone numbers of customers, the e-mail addresses, text messages, or PIN numbers associated with numbers of customers, the amount of controlled substances "fronted" to various customers along with running totals of debts to customers. Drug traffickers frequently maintain receipts such as credit card billings, parking stubs, hotel reservations/records, airline tickets, gas receipts and various notes. Items used to package controlled substances are also frequently maintained by drug traffickers. It is also common for these traffickers to maintain electronic devices that are used to facilitate their criminal activities, to include, but not limited to, mobile telephones, personal digital assistants, paging devices, answering machines, police scanners and money counters. It is common for drug traffickers to conceal narcotics records, narcotics proceeds and other related items described above within their residences, garages, safety deposit boxes, businesses, automobiles, and on their persons, in order that they may have ready access to these items. Drug traffickers commonly maintain address books and/or telephone numbers in books, papers, and wireless electronic devices that reflect the names, addresses, e-mail addresses, telephone numbers, pager numbers, and/or PINs for electronic communications with their criminal associates in the drug trafficking organization, even if said items are in code.

- c. During the course of my employment with the NET, I have participated in numerous narcotics investigations using various law enforcement techniques, including the use of confidential sources, undercover operations, physical surveillance, electronic surveillance, investigative interviews, and the execution of state and federal search warrants to search locations for controlled substances, related paraphernalia, cultivation and/or manufacturing equipment, indicia, and other evidence relating to violations of the Controlled Substances Act, including violations of State of Michigan controlled substance laws, Michigan Public Health Code. In my capacity as a Detective for the NET, I have personally observed and identified crack cocaine, and have been involved in numerous investigations involving the distribution and processing of crack cocaine.

APPENDIX 2

- d. I have participated in numerous investigations involving narcotics and controlled substances, including crack cocaine. I have also participated in countless hours of surveillance, observing and recording movements of persons trafficking in drugs and those suspected of trafficking in drugs. I have participated in and/or executed numerous search warrants authorizing the search of locations such as residences, storage facilities, and vehicles related to drug traffickers and their co-conspirators. These investigations have resulted in arrests of numerous individuals, the seizure of illicit drugs and drug-related evidence, and the forfeiture of drug-related assets.
- e. As a result of my experience, I have encountered and have become familiar with the day-to-day operations and the various practices, tools, trends, paraphernalia and related articles utilized by various traffickers in their efforts to cultivate, possess, import, conceal, and distribute controlled substances, including crack cocaine. I have also consulted with and discussed these investigations with numerous officers and agents who are very experienced in these types of investigations.
- f. Based on my training and experience, I am aware that individuals involved in the sale and distributions of controlled substances generate large amounts of United States currency. Proceeds generated from the sale of controlled substances are commonly cash, but in some cases traffickers will accept other property in trade or as payment for controlled substances.
- g. Based on my training and experience, I am aware that, because of the difficulties presented by trying to move large sums of illegal profits into the legitimate financial market, large-scale drug traffickers often collect cash drug proceeds faster than they are able to safely move the drug proceeds into the legitimate financial market because attempting to do so may attract the unwanted attention of law enforcement. Therefore drug traffickers commonly engage in a process of "cash hoarding". Cash hoarding is a process by which the drug trafficker will hide money caches until the funds can be properly funneled into the mainstream legitimate financial

APPENDIX 2

market with little chance of detection. Based on experience and training, Affiant knows that cash hoarding may involve secreting drug proceeds into a safe or safe deposit box, hidden places within any building or automobile, cavities of furniture or fixtures or structures, burying in the ground, and so on. Affiant also knows that drug traffickers commonly practice cash hoarding to protect their cash drug proceeds from being stolen by other criminals or confiscation and subsequent forfeiture by the government.

- h. Based on my training and experience, I am aware that it becomes common practice for a drug trafficker to disguise the manner in which drug proceeds are obtained, managed and spent by the trafficker. In doing so it is common for a drug trafficker to utilize an alias or multiple aliases, false identities, fictitious information, or witting persons called "nominees" or "straw buyers", or employ the assistance of co-conspirators who act as imposters posing as real people with good reputations and/or credit history. The drug trafficker will commonly place his/her assets, bank accounts, and other things of value in the name of a nominee, straw buyer, imposter, alias or fictitious person or identity to isolate the trafficker from discovery and/or identification by law enforcement, or to otherwise further their criminal acts. Any and/or all of these measures can be used to prevent detection by and prosecution by law enforcement and to prevent forfeiture of those assets by hiding assets belonging to the drug trafficker.
- i. Based on my training and experience, I am aware that the shell corporations is a common method used by a trafficker or drug trafficking organization to disguise, conceal, or to otherwise assert that illegal gains are legitimate income. In many cases drug proceeds are often alleged to be the proceeds of the shell corporation. It is common practice of a drug trafficker to open bank account(s) in the names of shell corporation(s). This practice is done so illegal proceeds can be moved from the illegal financial market into the legitimate financial market.

APPENDIX 2

4. Based upon your affiants training and experience involving narcotic traffickers and their concealment of funds and assets from the detection of governmental agencies, your affiant knows the following:
 - a. That drug traffickers very often place utilities, registrations, and other assets in names of others than their own to avoid detection by law enforcement and other government agencies.
 - b. That drug traffickers often place residences in other persons' names, although, the traffickers continue to exercise dominion and control over them.
 - c. That it is common for drug traffickers to maintain multiple premises from which their illegal business is conducted. Drug traffickers also store narcotics, narcotics proceeds and records relating to the trafficking of narcotics at their residences and/or businesses and the residences and/or businesses of their relatives and co-conspirators.
 - d. That large scale, narcotics traffickers must maintain on hand, large amounts of US Currency in order to maintain and finance their ongoing narcotics business.
 - e. That drug traffickers maintain books, records, receipts, notes, ledgers, airline tickets, money orders, passports, and other papers relating to the procurement, distribution, storage, and transportation of controlled substances. These records include the telephone numbers of customers, the amount of controlled substances distributed to various customers, along with running totals of debts owed by those customers. They also maintain paraphernalia utilized to cut and package controlled substances. These aforementioned items are commonly maintained in locations to which narcotic traffickers have frequent and ready access, i.e. homes, business, and automobiles.
 - f. That the aforementioned books, records, receipts, notes, ledgers, etc., are maintained where the drug traffickers have ready access to them.

APPENDIX 2

- g. That it is common for large scale drug traffickers to secrete contraband proceeds of drug sales, and records of drug transactions in secure locations within their residences and/or businesses for ready access and to conceal them from law enforcement authorities.
- h. That persons involved in large scale drug trafficking conceal within their residence and/or business, caches of drugs, large amounts of currency, financial instruments, precious metals, jewelry, automobile titles and other items of value and/or proceeds of drug sales and evidence of financial transactions, or spending of large sums of money acquired from engaging in drug trafficking activities and that these items are also secured in safety deposit boxes.
- i. That when drug traffickers amass large amounts of proceeds from the sales of drugs, the traffickers attempt to legitimize these profits. That to accomplish these goals, drug traffickers utilize domestic and foreign banks and/or financial institutions and their attended services, securities, cashier's checks, money drafts, letters of credit, brokerage houses, real estate, "shell" corporations, and business "fronts." Records of these activities are commonly kept in the drug traffickers' residences and/or businesses.
- j. That drug traffickers commonly maintain addresses, or telephone numbers in books or papers which reflect names, addresses and/or telephone numbers of their criminal associates in drug trafficking.
- k. That during drug transactions, traffickers take or cause to be taken photographs of themselves, their associates, their property and their product. That these traffickers usually maintain these photographs at their residences and/or other properties that they control.
- l. That drug traffickers commonly use electronic equipment to aid them in their drug trafficking activities. This equipment includes, but is not limited to, digital display pagers, mobile

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APPENDIX 2

telephones, electronic telephone books, electronic date books, computers, computer memory disks, money counters, electronic surveillance equipment, eavesdropping equipment, police radio scanners, and portable communication devices.

- m. That drug traffickers commonly possess firearms to protect their assets and narcotics. These firearms are commonly located on subjects person, residence and/or vehicle.
5. During the past 60 days, your Affiant received information from a credible and reliable Confidential Informant [hereafter referred to as CS-1], relative to the narcotic trafficking activities of Kristopher Hughes and Patrick Pankey, CS-1 provided the following information relative to the crack cocaine trafficking activities of Pankey and Hughes. CS-1 advised that PANKEY and HUGHES are members of an organization, arranging the processing and distribution of large scale quantities crack cocaine and other narcotics from local sources to Oakland County for distribution to the local Pontiac area. CS-1 advised that PANKEY and HUGHES are responsible for the local trafficking of the crack cocaine in the Oakland County area.
6. CS-1 informed your affiant that he/she knows from observations of PANKEY and HUGHES, conversations with PANKEY and HUGHES that PANKEY and HUGHES, are distributing/trafficking multi ounce quantities of crack cocaine per week throughout the Oakland County area and that their drug trafficking activities are on-going to presents date. CS-1 explained to your affiant that he/she has observed PANKEY and HUGHES during the past 60 days and as ^{or} recent as within the past 48 hours conduct narcotics trafficking activities in Oakland County, Michigan. CS-1 advised the he has observed and has had conversations with PANKEY and HUGHES that HUGHES is PANKEY's main supplier of narcotics.
7. CS-1 advised that he/she has observed PANKEY and HUGHES at 45 W Beverly Ave, Pontiac, Michigan and has observed over 3 occasions during the past 60 days and as resent as within the

APPENDIX 2

past 48 hours, where PANKEY and HUGHES were in possession of packaged crack cocaine for sale at this location. CS-1 advised that PANKEY resides at 45 W Beverly Ave, Pontiac, Michigan and has observed crack cocaine in PANKEY and HUGHES possession packaged for sale at this location. CS-1 advised that he/she has observed PANKEY and HUGHES with large amounts of US Currency in their possession and knows from observations and conversations with PANKEY and HUGHES the US Currency in PANKEY and HUGHES possession to be drug proceeds from the sale of crack cocaine. CS-1 advised that he/she has observed during the past 48 hours PANKEY and HUGHES in possession of handguns at the 45 W. Beverly address. CS-1 identified photographs of PANKEY and HUGHES.

8. NET detectives were advised that **HUGHES is currently on parole** through MDOC and identified 433 Franklin, Pontiac, Michigan as HUGHES current registered address from MDOC/parole. NET detectives have conducted surveillance at 433 Franklin, Pontiac, MI within the last 48 hours and have observed the same 2001 GMC Yukon (bearing MI plate of DNG9190) at this residence. CS-1 advised that this vehicle is being driven by HUGHES for the purposes of distributing narcotics to 45 Beverly Ave, Pontiac MI. During controlled purchases of narcotics at 45 Beverly Ave, Pontiac MI this vehicle has been observed by NET Detectives at 45 Beverly Ave, Pontiac MI. During the past 48 hours; HUGHES has been observed by NET Detectives driving the 2001 GMC Yukon (bearing MI plate of DNG9190).
9. Your affiant has conducted multiple controlled purchases of narcotics from PANKEY and with the cooperation of CS-1 over the past 30 days and as recent as the past 48 hours at 45 W Beverly Ave, Pontiac MI. Note: HUGHES was present during the last controlled purchase of narcotics (within the past 48 hours) at the 45 W. Beverly, address, and during this narcotic transaction, the CS-1 was made aware that HUGHES was the source of supply of the cocaine from the observations and conversations that the CS-1 had with PANKEY and HUGHES.

APPENDIX 2

(A) The confidential informant was searched before and after the controlled purchases. The confidential informant immediately returned to the affiant after making the purchase and turned over the substance that had been purchased with pre-recorded investigative funds.

(B) The substance alleged by the informant to be crack cocaine was field tested with a positive result for cocaine utilizing NARK 2 Scott Reagent Modified field testing kit.

(C) The informant was searched immediately before and after making the purchase with negative results.

10. The information provided by CS-1 relative to this investigation (i.e. descriptions of locations, vehicles and persons of interest) has been shown by public databases, law enforcement databases and surveillance to be accurate, in addition to the successful controlled purchases of crack cocaine, and proves CS-1 to be credible. In addition the information that CS-1 has provided to Law Enforcement in the past in reference to other unrelated narcotic investigations have led to over ten State Search Warrants and the seizure of narcotics, firearms and over \$10,000 US Currency, as well as the arrest and conviction of subjects on narcotic and weapon offenses.

PUBLIC DATA BASES/SECRETARY OF STATE RECORDS/MDOC RECORDS

11. Your affiant conducted an inquiry with the Michigan Secretary of State that revealed that PANKEY current Michigan Driver's Licenses issued to him (PANKEY) is registered, at 45 W Beverly Ave, Pontiac, Michigan.
12. During the past 48 hours, your affiant conducted an inquiry with the Michigan Secretary of State that revealed that HUGHES current Michigan Driver's License issued to him (HUGHES) is

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registered at 106 N Tasmania, Pontiac, Michigan. During the past 48 hours your affiant conducted an public data records check (Lexus/Nexus) that revealed that HUGHES is currently associated with 106 N. Tasmania, Pontiac, Michigan. Your affiant also knows from training and experience, that narcotic traffickers commonly utilize several addresses to thwart law enforcement from discovering their true residence, drug stash and distribution locations, as well as traffickers commonly store their assets gained from drug proceeds other residence, such as family members, girlfriends and associates residence in an attempt to hinder law enforcement in locating and seizing such assets.

13. During the past 48 hours, your affiant has contacted an inquiry with MDOC reference HUGHES that revealed the registered MDOC parole address for HUGHES is 433 Franklin, Pontiac MI. Your affiant also knows from training and experience, that narcotic traffickers commonly utilize several addresses to thwart law enforcement from discovering their true residence, drug stash and distribution locations, as well as traffickers commonly store their assets gained from drug proceeds other residence, such as family members, girlfriends and associates residence in an attempt to hinder law enforcement in locating and seizing such assets.

LAW ENFORCEMENT DATABASE RECORDS (Criminal History)

14. Your affiant conducted a criminal history that revealed the following;
Reference to; **Patrick Pankey**:
2004- Conviction of possession of marijuana, Southgate Police Department

Reference to **Kristopher Hughes**:
1997- Felony Conviction of possession of controlled substance, Pontiac Police Department

APPENDIX 2

2008-Felony conviction possession of controlled substance, Pontiac Police Department

2009-Misdemeanor conviction possession controlled substance, OCSO

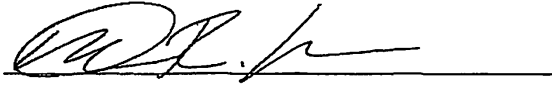
2013- Felony conviction possession controlled substance, OCSO

Note: HUGHES is currently on Parole with MDOC.

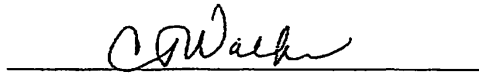
15. Your affiant believes that a search of 45 W Beverly Ave, Pontiac, Michigan, 106 N. Tasmania, Pontiac, Michigan and 433 Franklin, Pontiac, Michigan will result in the seizure of narcotics as well as documentary evidence tending to establish a large scale drug conspiracy. Your affiant contends that a search warrant of the listed locations will result in the seizure of evidence that will greatly assist the NET in the identification of additional co-conspirators, crack cocaine sources of supply, and also to identify crack cocaine customers. Your affiant also believes that a search of the residences will result in the seizure of drug proceeds (cash and assets) obtained through narcotic transactions with PANKEY and HUGHES and others currently unknown. Your affiant knows from his training and experience that drug traffickers sometimes maintain one or more residence for the distribution of narcotics and additional residences for the storage of drug proceeds. Your affiant is aware that drug traffickers often maintain weapons at these locations to protect their drugs and proceeds. Your affiant knows that traffickers sometimes maintain drug paraphernalia and money/drug ledgers at both of these locations in order to facilitate their ongoing drug distribution operation. Your affiant contends that the above listed confidential source information and NET surveillance observations tend to show that PANKEY's residence located at 45 W Beverly Ave, Pontiac, Michigan, and that HUGHES is associated with 45 W. Beverly as well as; 106 N. Tasmania, Pontiac, Michigan and 433 Franklin, Pontiac, Michigan will contain evidence of narcotic trafficking activities such as drug records, drug proceeds and drug paraphernalia.
16. Based on the foregoing, your affiant contends that probable cause exists 45 W Beverly Ave, Pontiac, Michigan, 106 N. Tasmania, Pontiac, Michigan and 433 Franklin, Pontiac, Michigan will

APPENDIX 2

contain evidence of violations of State of Michigan controlled substance laws and Michigan Public Health Code.



Detective Matthew Gorman, Affiant Subscribed and sworn to before me this ^{CSW}10th day of August, 2016.



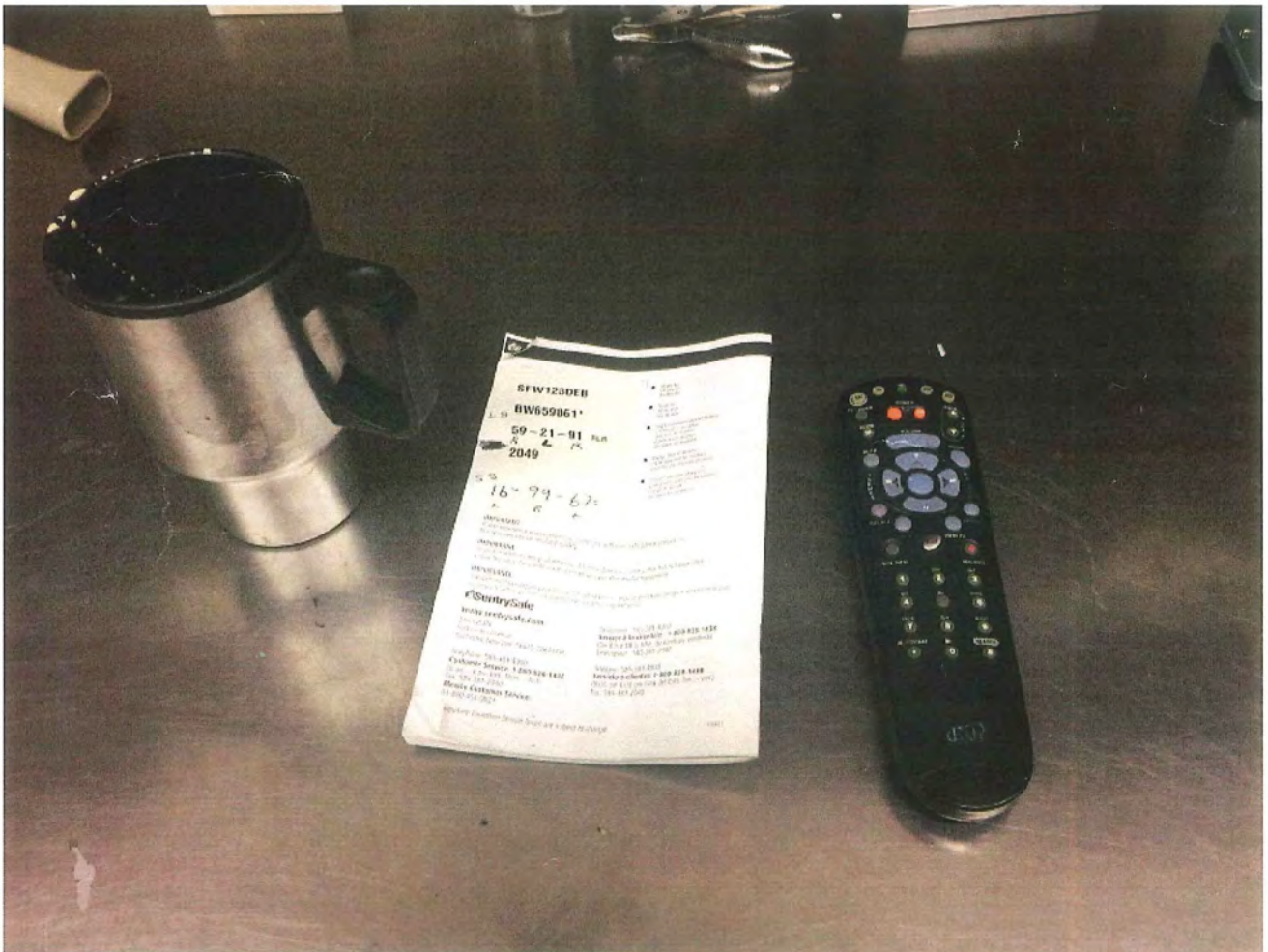
Judge/Magistrate in and for the 50th District Court

County of Oakland, State of Michigan

TIME: 2:30 PM

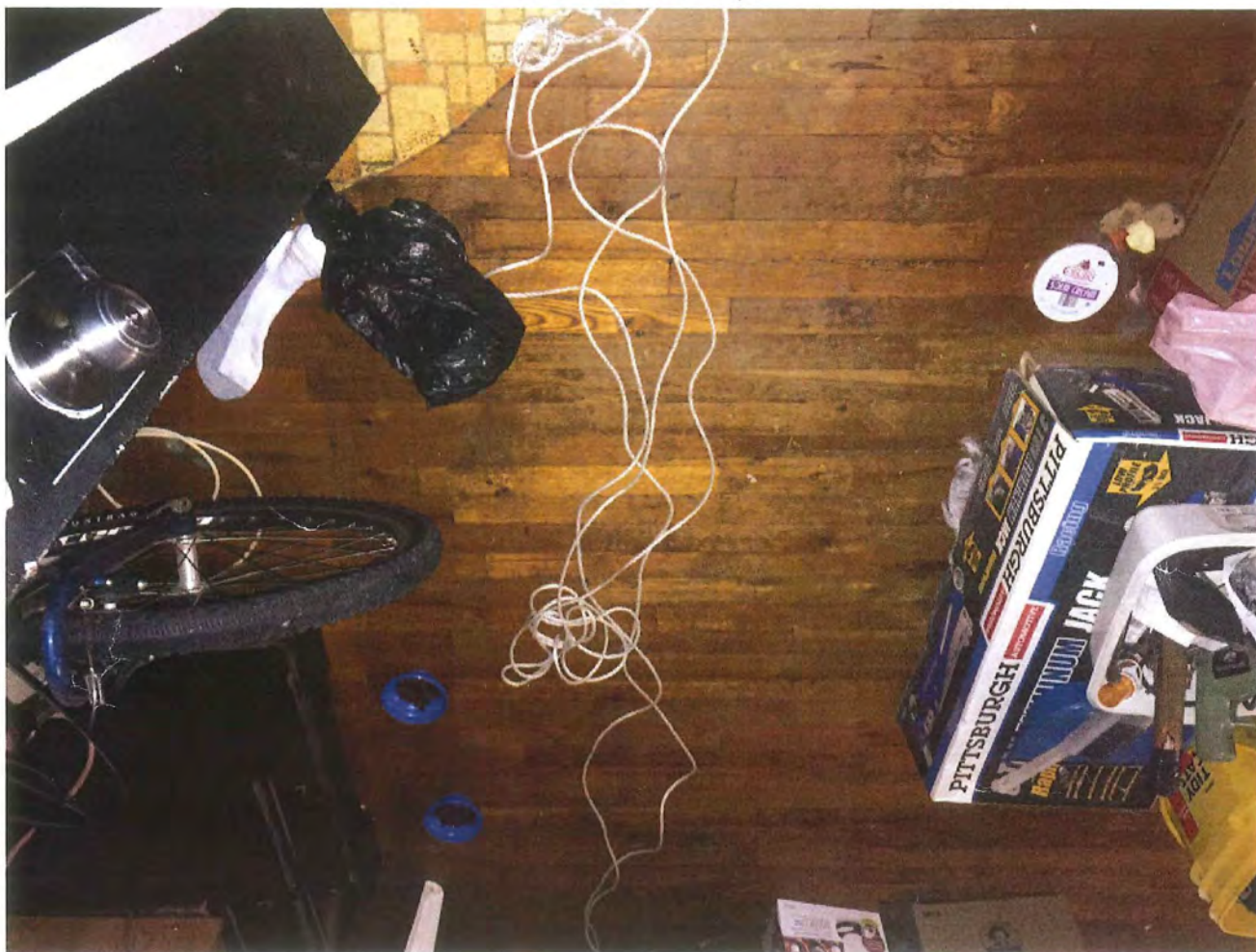
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APPENDIX F
Prosecution Exhibits
1 & 2 Photos



Attachment File : pic

Attachment File : rope



APPENDIX G
Prosecution Exhibit 4
Extraction Report



Extraction Report

Google Android UFED Logical (Generic)



Summary

UFED Physical Analyzer version	5.3.5.14
Report creation time	10/5/2016 11:40:19 AM -04:00
Time zone settings (UTC)	Original UTC value
Case number	16-NET-457
Case name	People v Kristophger Hughes
Evidence number	001
Examiner name	Wagrowski #173
Department	OCSO CCU

Source Extraction

Logical	
Extraction start date/time	10/4/2016 10:05:15 AM
Extraction end date/time	10/4/2016 10:31:17 AM
Unit Identifier	5938631
UFED Version	5.3.0.731
Internal Version	4.3.11.731
Selected Manufacturer	LG GSM
Selected Device Name	MS330
Connection Type	Cable No. 100
Extraction Type	Logical [Android ADB]
Extraction ID	461C2280-1B0C-421F-AF1D-8A4591870829
Report type	Phone

Device Information

Appendix G - Prosecution Exhibits 4 (Extraction Report) 50a

Extraction Report

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Name	Value
Logical	
Detected manufacturer	MetroPCS
Detected model	LGMS330
Phone revision	5.1.1 LMY47V 153571544a5ad
IMEI	355867075259799
ICCID	8901260792949316945
MSISDN	12482149084
MSISDN Type	MSISDN
IMSI	310260794931694
Client Used for Extraction	Yes
Bluetooth MAC Address	88:07:4B:49:9D:F1
Android ID	1a3a3e72aa4959e9
Bluetooth device name	K7
Phone Activation Time	8/9/2016 6:43:06 PM(UTC+0)
Phone Activation Time	1/31/2016 6:25:30 PM(UTC+0)
Mock locations allowed	False
Extraction Notes	
Generic	+ZZ - Extracted phone time stamp time zone is expressed in quarters of an hour

Plugins

#	Name	Author	Version
1	UFED Logical Report Reader Reads the report generated by the UFED	Cellebrite	2.0
2	Android Databases Decodes user data and 3rd party application databases for Android devices	Cellebrite	2.0
3	Pre Project		
4	Garbage Cleaner		
5	ContactsCrossReference Cross references the phone numbers in a device's contacts with the numbers in SMS messages and Calls. Will fill in the Name field of calls and SMS if there's a match.	Cellebrite	2.0
6	Analytics Generates the Analytics section information	Cellebrite	2.0
7	Project Processor Finisher		
8	Post Project		

Appendix G - Prosecution Exhibits 4 (Extraction Report) 51a

Extraction Report

Page 3 of 3

Contents

Type	Included in report		Total	
Call Log	2018	(28 Deleted)	2018	(28 Deleted)
Cell Towers	3213	(152 Deleted)	3213	(152 Deleted)
Contacts	1501	(411 Deleted)	1501	(411 Deleted)
Locations	3381	(152 Deleted)	3381	(152 Deleted)
MMS Messages	196	(14 Deleted)	196	(14 Deleted)
Passwords	1		1	
Searched Items	41	(1 Deleted)	41	(1 Deleted)
SMS Messages	1639	(307 Deleted)	1639	(307 Deleted)
Timeline	8725		8725	(305 Deleted)
User Accounts	10		10	
User Dictionary	12		12	
Web History	421		421	
Wireless Networks	168		168	
Data Files	1201		1201	
Images	1181		1181	
Videos	20		20	
Activity Analytics	2050		2050	
Analytics Phones	653		653	

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APPENDIX H
Prosecution Exhibits 5, 6, 9 & 10
Call Log and Text Messages

Call Log (19)

	Quality Code	Network Name	Number	Date	Time	Duration	Direction
1			From: +12488944069 Lisa	8/6/2016	8/6/2016 10:41:40 PM(UTC-4)	00:01:57	Incoming
2			From: +12488944069 Lisa	8/6/2016	8/6/2016 9:16:28 PM(UTC-4)	00:00:08	Incoming
3			General: +12488944069 Lisa	8/6/2016	8/6/2016 7:21:00 PM(UTC-4)	00:00:00	Unknown
4			From: +12488944069 Lisa	8/6/2016	8/6/2016 5:59:06 PM(UTC-4)	00:01:41	Incoming
5			To: +12488944069 Lisa	8/6/2016	8/6/2016 4:09:34 PM(UTC-4)	00:00:00	Outgoing
6			General: +12488944069 Lisa	8/6/2016	8/6/2016 3:24:41 PM(UTC-4)	00:00:00	Unknown
7			From: +12488944069 Lisa	8/6/2016	8/6/2016 12:46:11 PM(UTC-4)	00:00:59	Incoming
8			To: +12488944069 Lisa	8/6/2016	8/6/2016 11:05:12 AM(UTC-4)	00:01:00	Outgoing
9			From: +12488944069 Lisa	8/6/2016	8/6/2016 2:27:48 AM(UTC-4)	00:00:31	Incoming
10			From: +12488944069 Lisa	8/6/2016	8/6/2016 2:13:27 AM(UTC-4)	00:00:30	Incoming
11			From: +12488944069 Lisa	8/6/2016	8/6/2016 2:11:31 AM(UTC-4)	00:00:20	Incoming
12			From: +12488944069 Lisa	8/6/2016	8/6/2016 2:00:19 AM(UTC-4)	00:00:14	Incoming
13			From: +12488944069 Lisa	8/6/2016	8/6/2016 1:59:41 AM(UTC-4)	00:00:19	Incoming
14			From: +12488944069 Lisa	8/6/2016	8/6/2016 1:52:11 AM(UTC-4)	00:00:49	Incoming
15			To: +12488944069 Lisa	8/6/2016	8/6/2016 1:31:22 AM(UTC-4)	00:00:00	Outgoing
16			From: +12488944069 Lisa	8/6/2016	8/6/2016 1:26:36 AM(UTC-4)	00:00:57	Incoming
17			To: +12488944069 Lisa	8/6/2016	8/6/2016 1:26:17 AM(UTC-4)	00:00:00	Outgoing
18			To: +12488944069 Lisa	8/6/2016	8/6/2016 1:24:55 AM(UTC-4)	00:00:04	Outgoing
19			From: +12488944069 Lisa	8/6/2016	8/6/2016 1:21:34 AM(UTC-4)	00:00:48	Incoming



SMS Messages (15)

1	From: +12488421345	8/10/2016	8/10/2016 4:35:43 AM(UTC-4)	Inbox	Read	(1/2) This omega you just met me wit mellisa seein if u was still up tryin to do the same and seein if u knew how to get ahold of mellisa i texted cuz didnt kno
2	From: +12488944069 Lisa	8/7/2016	8/7/2016 11:15:20 AM(UTC-4)	Inbox	Read	After tody because of lack o will not be coming around anymore
3	From: +13139182326	8/7/2016	8/7/2016 12:22:00 AM(UTC-4)	Inbox	Read	Oh my God guess what I finally made it to Oz and Lisa got the Scarecrow
4	From: +13139182326	8/7/2016	8/7/2016 12:00:39 AM(UTC-4)	Inbox	Rea	Hey it's Lainey and Lisa call us back right awa
5	From: +12488944069 Lisa	8/6/2016	8/6/2016 2:39:34 AM(UTC-4)	Inbox	Rea	I did
6	To: +12488944069 Lisa	8/6/2016	8/6/2016 2:36:30 AM(UTC-4)	Sen	Sen	Open the doo
7	From: +12488944069 Lisa	8/6/2016	8/6/2016 2:34:45 AM(UTC-4)	Inbox	Read	The screen door is locked but the door is unlocked
8	From: +12488944069 Lisa	8/6/2016	8/6/2016 1:41:06 AM(UTC-4)	Inbox	Rea	He has flat screen TV
9	From: +12488944069 Lisa	8/6/2016	8/6/2016 1:40:12 AM(UTC-4)	Inbox	Rea	We're in the living roo
10	From: +12488944069 Lisa	8/6/2016	8/6/2016 1:36:52 AM(UTC-4)	Inbox	Read	I can't do the door is opened the first House on the left
11	To: +12488944069 Lisa	8/6/2016	8/6/2016 1:32:18 AM(UTC-4)	Sen	Sen	Text me or call me
12	From: +12488944069 Lisa	8/6/2016	8/6/2016 12:53:06 AM(UTC-4)	Inbox	Read	It's the first House on the Left on Rutgerill text in a ml
13	To: +12488944069 Lisa	8/5/2016	8/5/2016 11:12:27 PM(UTC-4)	Sen	Sen	
14	From: +12488944069 Lisa	8/5/2016	8/5/2016 11:12:09 PM(UTC-4)	Inbox	Rea	Getting 50 be there in 1
15	From: +12488944069 Lisa	8/5/2016	8/5/2016 3:40:36 PM(UTC-4)	Inbox	Rea	She is back on the room with P



SMS Messages (13)

#	Party	Time	Folder	Status	Message	Deleted
1	From: +12483422044 Dub	8/4/2016 9:42:33 PM(UTC-4)	Inbox	Read	(1/2) I don't know how to take a niggardly putting his hands on me I did 20 year for killing a niggardly for trying to rob me when I was 15 years old we need	
2	From: +12488127561 :my Bro David	8/3/2016 12:31:32 AM(UTC-4)	Inbox	Read	Yo, killa this David. I met u the other day filling them gas tanks up. I gotta Holla at u.	
3	To: 2489917527 Fjjimmode 75-year-old	8/1/2016 8:19:40 AM(UTC-4)	Sent	Sent	me killa	
4	From: +12488410324 P Jay	7/29/2016 7:22:56 PM(UTC-4)	Inbox	Read	(2/3) d almost killed it. Which had the police asking for me and who I have living here I'm the only white male here pretty messed up so my neighbor is on alert	
5	From: +12694473002 Frank	7/29/2016 8:58:34 AM(UTC-4)	Inbox	Read	Hey get on this so we can chat marcopolo13.me/i/kill-a-8ivv3	
6	From: +12486783798	7/16/2016 6:27:53 PM(UTC-4)	Inbox	Read	Dame baby see I believe you killer I really need to get to the store I need to make some money I have to think about tommow I know u had to take care of your girl but I been keeping my word	
7	From: +12488186537 Jess*ca	7/5/2016 5:26:08 PM(UTC-4)	Inbox	Read	Hey killer diss me Jessica was going on you had getting my number when I was walking I can't can't remember where I know you from	
8	From: +12484950872 Petey C	7/5/2016 2:45:46 PM(UTC-4)	Inbox	Read	U got kill?	
9	From: +12488186537 Jess*ca	7/5/2016 9:49:14 AM(UTC-4)	Inbox	Read	Whats up Killar	
10	From: +12487223350	6/28/2016 8:54:02 PM(UTC-4)	Inbox	Read	Kills. They got me at a 50%way house on Senica. Where you at seen tay. Other day. Shug...	
11	From: +12484105458	6/20/2016 4:24:01 PM(UTC-4)	Inbox	Read	This j killa she won't do no less than 400 she said cause its.for her rent	
12	From: +12489043072 B Mike	5/11/2016 2:26:10 AM(UTC-4)	Inbox	Read	Killa u up	Yes
13	From: +12482128826 Michell	5/6/2016 7:43:16 AM(UTC-4)	Inbox	Read	(1/3) Killer. A birch is tired. Partied too much can barely walk.	Yes



SMS Messages (30)

#	Party	Time	Folder	Status	Message	Deleted
1	From: +12489291665	8/4/2016 4:40:17 AM(UTC-4)	Inbox	Read	Whats up kris. Your mail box full need some mote of that	
2	From: +12484034541 Wifi	8/1/2016 7:06:34 PM(UTC-4)	Inbox	Read	No Kris cause if you did you wouldn't do me like you do. I'm not everything, I'm just something. Again baby I'm not mad at you, I'm just tired of you.	
3	From: +12484034541 Wifi	7/26/2016 2:41:55 AM(UTC-4)	Inbox	Read	Whoever keep canceling my call! You can answer I don't care I just need to speak with Kris now!	
4	From: +12484034541 Wifi	7/17/2016 11:47:47 PM(UTC-4)	Inbox	Read	Lol I just want you and all of YOU! I LOVE YOU KRISTOPHER :-)	
5	From: +12484034541 Wifi	7/16/2016 5:02:50 AM(UTC-4)	Inbox	Read	You just can't stop doing dumb, crazy, childish shit, I don't need or have room in my life for that Kris.	
6	From: +12484034541 Wifi	7/16/2016 4:57:29 AM(UTC-4)	Inbox	Read	Doing what's best for me, is you out taking half dressed women and lord knows whatever else, at a time like this Kris!	
7	From: +12484034541 Wifi	6/29/2016 8:22:04 AM(UTC-4)	Inbox	Read	I HATE YOU KRIS!!!!	
8	From: +12484034541 Wifi	6/19/2016 2:58:47 AM(UTC-4)	Inbox	Read	Ok really Kris!!! WOW!!!!	
9	From: +12484034541 Wifi	6/18/2016 2:39:33 PM(UTC-4)	Inbox	Read	Kris are you at church	
10	From: +12484034541 Wifi	6/18/2016 12:32:33 AM(UTC-4)	Inbox	Read	Ok Kristopher, I love you baby	
11	From: +12484034541 Wifi	6/12/2016 10:26:35 AM(UTC-4)	Inbox	Read	Kristopher I LOVE you! And I'm happy we're living together, I will never hurt or disrespect you in terms of another man. I'm completely happy being your wify.:-)	
12	From: +12484034541 Wifi	6/11/2016 1:21:10 PM(UTC-4)	Inbox	Read	I love you Kris, and it's real baby. Thank you for loving me through all my craziness.	
13	From: +12482020465	6/7/2016 12:17:19 PM(UTC-4)	Inbox	Read	Hey uncle Kris this is Panama, do you have like \$30 so I can get something to wear for tonight?	
14	From: +12484034541 Wifi	5/22/2016 10:37:18 PM(UTC-4)	Inbox	Read	I LOVE YOU KRISTOPHER :-)	
15	From: +12484034541 Wifi	5/21/2016 11:42:50 PM(UTC-4)	Inbox	Read	I do baby, I never been in love and loved a man so much baby. Or felt like I needed man before, Kristopher I NEED YOU!!!!	

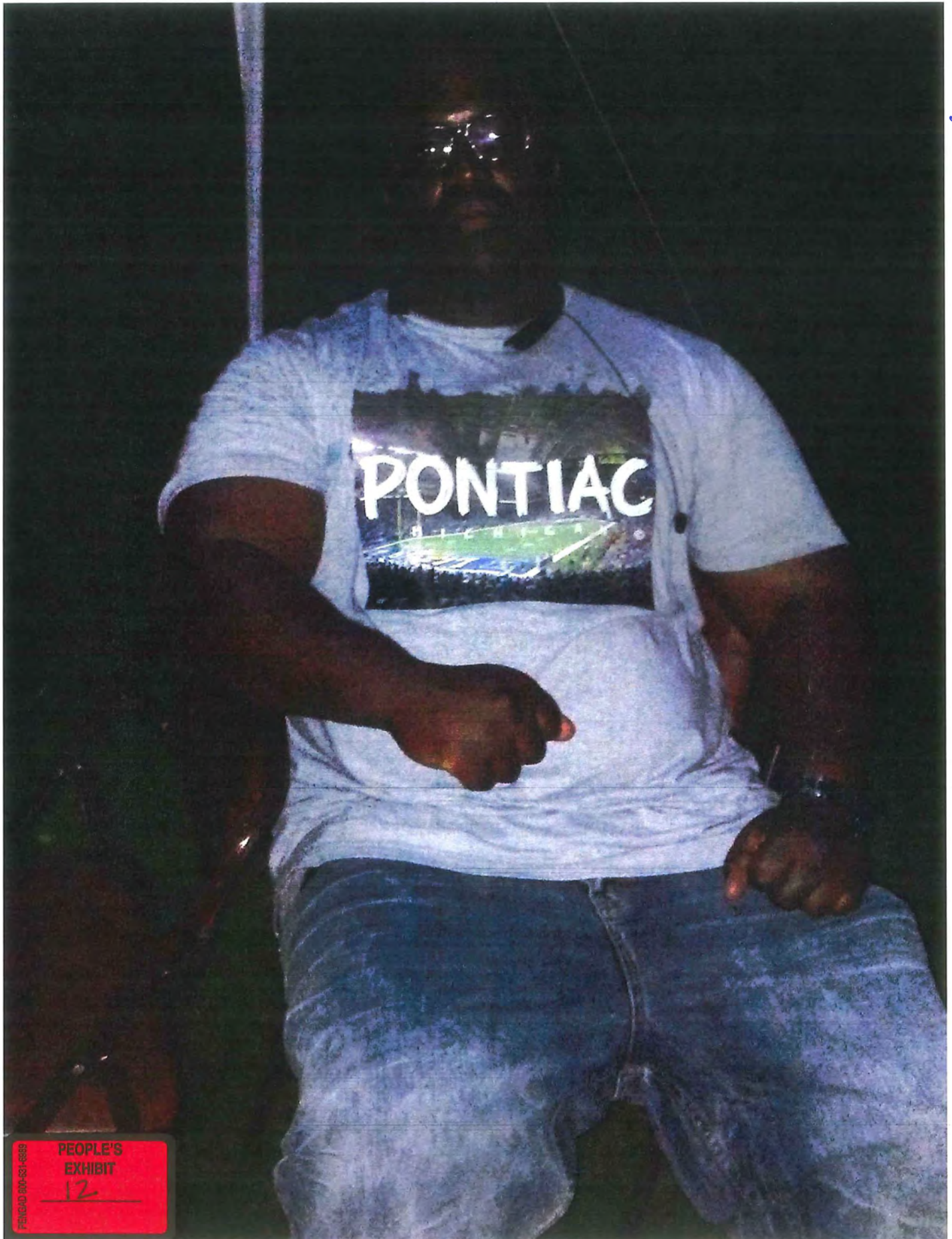


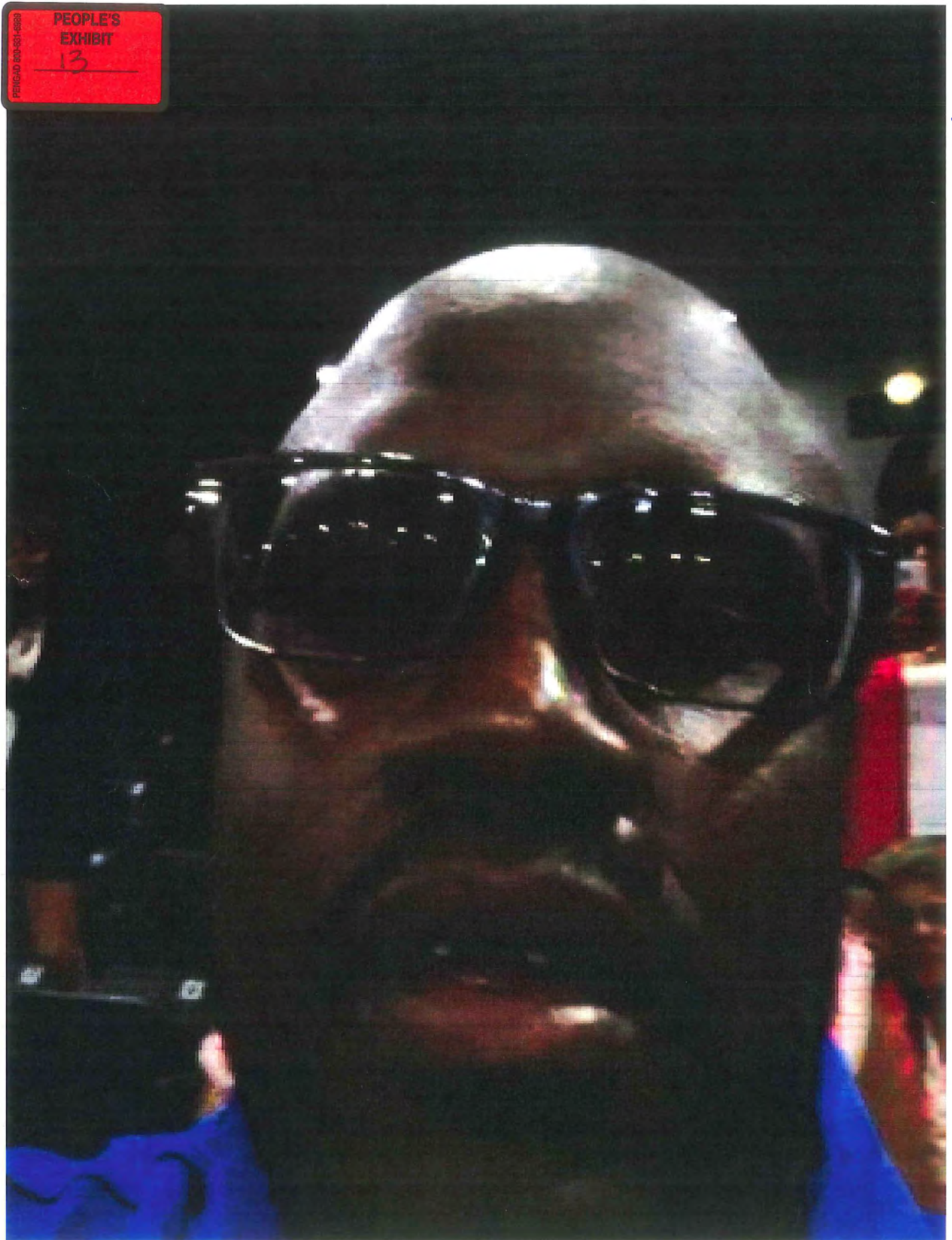
16	From: +19894672070 Jenny	5/19/2016 1:14:02 PM(UTC-4)	Inbox	Read	Kris we are at 280. i fucken miss you. come see me.....	Yes
17	From: +12484034541 Wifi	5/17/2016 2:45:07 PM(UTC-4)	Inbox	Read	Wyd Kris??????	
18	From: +12484034541 Wifi	5/14/2016 11:30:44 PM(UTC-4)	Inbox	Read	I new it! And that's what you've been doing. Well good luck, I wish you the best Kris. Bye Bye!	
19	From: +19894672070 Jenny	5/14/2016 5:37:25 PM(UTC-4)	Inbox	Read	How are you Kris?	Yes
20	From: +12484034541 Wifi	5/14/2016 5:34:06 PM(UTC-4)	Inbox	Read	Now you on somebullshit!!! You want to play games let's play!!! Do you don't call me!!! I'm serious I don't have the energy to put into you. PLEASE KRIS JUST LEAVE ME ALONE PLEASE!!!!!!	
21	From: +12484034541 Wifi	5/14/2016 5:10:51 AM(UTC-4)	Inbox	Read	You got company Kris, already!!!!	
22	From: +12484034541 Wifi	5/13/2016 11:19:25 PM(UTC-4)	Inbox	Read	Kris come open DOOR Please!	
23	From: +12484034541 Wifi	5/10/2016 3:08:41 PM(UTC-4)	Inbox	Read	What the fuck Kris	
24	From: +12484034541 Wifi	5/9/2016 9:14:21 AM(UTC-4)	Inbox	Read	I apologize Kristopher!	
25	From: +12484034541 Wifi	5/8/2016 2:49:12 PM(UTC-4)	Inbox	Read	Kris you must of sent the response to someone else text message, cause I didn't get it. :-(
26	From: +12484034541 Wifi	5/8/2016 1:31:58 PM(UTC-4)	Inbox	Read	Kris will you marry me???	
27	From: +12484034541 Wifi	5/3/2016 11:59:06 AM(UTC-4)	Inbox	Read	I'm tired Kris, I'm tired	
28	From: 266278	4/26/2016 7:21:25 PM(UTC-4)	Inbox	Read	As requested, here's your new XFINITY WiFi name and password:	Yes
					WiFi Name: KRISTOPHER	
					WiFi Password: Princess1951	
29	From: +12484034541 Wifi	4/16/2016 10:35:52 PM(UTC-4)	Inbox	Read	Kris I love you	
30	From: +12484034541 Wifi	3/3/2016 8:12:08 AM(UTC-5)	Inbox	Read	Kris how do i play the 1999	Yes

APPENDIX I
Prosecution Exhibits 11-15
Photos from Phone



PEOPLE'S
EXHIBIT
11





PEOPLE'S
EXHIBIT
13

Appendix I - Prosecution Exhibits 11-15 (Photos from Phone) 62a





PEOPLE'S
EXHIBIT
15

REC'D 10-10-2010

APPENDIX J
Juror Notes from First Trial
11/15/2016 & 11/17/2016

111.11/18/2016.1:31:3347725

People v. Kris Hughes

16-260154-FC

SA
4:10
11/15/2016


Can we have
the exhibits?

LB

Kh KR

OAKLAND COUNTY 16-260154-FC

JUDGE HALA JARBOU
PEOPLE v. HUGHES, KRISTO

RECEIVED FOR FILING
OAKLAND COUNTY CLERK
2016 NOV 17 PM 2:29
BY: 
DEPUTY CLERK

RECEIVED by MSC 2/26/2020 2:27:31 PM

LII.11/18/2016.1:31:3347726

SA

~~4:43~~

4:43

11/15/16

People v Kross ~~King~~
Hughes

16-260154-FC

Can we go home

We can't find a
verdict today

He
7:1

HB

LII. 11/18/2016. 1:31:3347727

People v. Kris Hughes
16-260154-FC

11-16-2016 8:45

821

① How long does a jury deliberate before deciding, especially if the jury seems very split and people seem set on their opinions in both ways?

② Is it possible to get a white board and markers?

1) Continue deliberating

2) we will see what we can find.

Kr

IT

LI1.11/18/2016.1:31:3347728

People v. Kris Hughes
16-260154-FC

11-16-15 8:55
SA

- Was Detective Gorman sent on a search warrant to Mr. Hughes' house related to this case or to a separate drug case?

Please rely on your collective memories as to the evidence presented at trial.

HJ

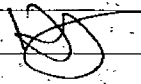
Kr ET

LII.11/18/2016.1:31:3347729

People v. Kris Hughes
16-260154-FC
SA

11-16-15 9:05
SA
- Can you tell us the
layout of Mr. Stite's house?

Please rely on your
collective memory.



CT Kr

LII. 11/18/2016. 1:31:3347730

What time can we have
a lunch break? We could
all use a bit of a
breather.

Lunch is from 12pm -
1pm.

km 1-15
15

People v. Kris Hughes

16-266154-FC

11:30 SA 11/16/16

LII. 11/18/2016. 1:31:3347731

People v. Kris Hughes

16-260134-FC

SM

11-16-16

11:55

This jury is very split.

There are a handful of members who firmly stand on one side and say they cannot be swayed, and the same on the other side. What do we do?

You may go to lunch and return at 1:15 p.m.

At that time, continue your deliberations.

KH at

LII.11/18/2016.1:31:3347732

People v. Kris Hughes
16-260154-FC
SA 11-16-16

12:10

Can we get our
lunch badges?

yes.

kr n

LII. 11/18/2016. 1:31:3347733

16-260154-FC 11-16-16 SA

1:50

People v. ~~Mr~~ Kris Hughes
Hughes

How far was Mr. Stites

house from the 7-11?

Please rely on your
collective memory.

1-25

KH KT

LII.11/18/2016.1:31:3347734

3:40 PM
4/16/16

People v. Kris Hughes
16-260154-FC

Deliberation has
come to a standstill.

We are at a deadlock,
and no one is changing
their minds. We are
not able to come to a
unanimous verdict.

LII.11/18/2016.1:31:3347735

People v. Kris Hughes

16-260154-AC

SA 11-16-16

For the Judge:

4:25

Issues Dividing the Jury

- Mr. Stiles was not able to positively ID Mr. Hughes.

- Mrs. Weber's testimony was not credible (according to some) and she was the only one to positively identify Mr. Hughes from that night.

- There was no physical evidence placing Mr. Hughes inside the residence.

*For some, it's indicated as a "gut feeling" that something's not right.

Given the list of issues that you have now provided, there is nothing I can add to the instructions that have already been provided to you to help you resolve those issues other than to direct you to continue to discuss the evidence and ~~not~~ rely on your collective memories.

1/27

1/25

LII. 11/18/2016. 1:31:33 470340

Pope v. Kris Hughes
16-260154-FC SA
11-16-2016

- At what time do we get
to go home for the day?
5pm today

- Do we finish today or
come back tomorrow?
If no verdict, return
tomorrow at 8:30 a.m.

- If we are asked to stay
late today, will we be
given the chance to
communicate that to our
family/bosses?

yes.

th
KJ
BE

LII.11/18/2016.1:31:3347745

When can we leave
to contact family?

Now.

He

He

He

People v. Kris Hughes

16-260154-FC SA

11-16-2016

LI1.11/18/2016.1:31:3347738

4:45

People v. Kris Hughes
16-260154-FC SA
11/16/2016

If we can
leave at
5, we'd
prefer to
stay until
then.

or

or

12/5

For the judge

9:55
SA

81

The jury is split

because some of us

concerned with

are going on intent to

commit the crime and

some are saying that

the evidence shows the

timeline of the crime is

not possible (2:39 is last

text and the cop showed up

at 2:45 as per collective memory).

Should we be focused on

intent or specific time of

evidence? →

People v. Kris Hughes

9:55
SA

82

16-260154-FC 11/17/16

The paper you gave us leads

some to believe that

intent is most important,

but we wonder if the

timeline might cause us

to render not guilty based

on incorrect time stamps

on the evidence?

The instructions are

to be taken as a whole -

Please rely on the jury

instructions.

120
PT

4/

111.11/18/2016 1:31:33 47738
111.11/18/2016 1:31:33 47738

LII.11/18/2016.1:31:3347741

10:00

I FOR GOT my badge

#697 - JUNIOR

CAN I GO TO GET ONE

This can be taken care of
when there is a ^{not} ~~brother~~ ^{brother} HO
KN

People v. Kris Hughes
16-260154-FC 11/17/16
10:00 SA

L11.11/18/2016.1:31:3347742

People v.
Kris Hughes10:26 SA
11-17-16

We feel we have exhausted all angles of the evidence and discussed every aspect of the testimonies and exhibits, but there are still members of the jury that are holding steadfast to their opinions. We do not feel we will be able to make a unanimous decision with any amount of further deliberation.

} Addressed on
Rec }

APPENDIX K
Juror Notes from Second Trial
1/25/2017 & 1/26/2017

TII 1/30/2017 10:22:40 08271

3:26

1/26

SA

People v KRS Hughes

16-260154-FC

OAKLAND
COUNTY

16-260154-FC



JUDGE HALA JARBOU

PEOPLE v HUGHES, KRISTO

more time will not
resolve our deadlock.

Strong convictions on
both sides will not
allow us to make
a unanimous decision.

* RT

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2017 JAN 27 PM 12:04
BY: [Signature]
DEPUTY COUNTY CLERK

RECEIVED by MSC 2/26/2020 2:27:31 PM

TII.1/30/2017.10:22:4008272

3:20

1/26

People v. Kristopher Hughes

16-260154-FC

Today deliberations will
continue until 4pm, not
4:30 p.m.

H

RE

K

RECEIVED by MSC 2/26/2020 2:27:31 PM

People v. Kris Hughes
16-260154-FC

2:00 pm
1/26/17
SA

Rely on all of the instructions

I have given you so far in
order to guide your deliberations.

Kris
+5

CONSENSUS

2:00 pm
1/26/17
SA

① 100% OF LISA W. TESTIMONY
IS UNTRUE

② NO EVIDENCE TO PROVE
THE PHONE BELONGS TO
KRIS N. OTHER THAN IT WAS
IN HIS POSSESSION.

③ NO EVIDENCE K. HUGHES USED
THAT PHONE & /c HE WAS THE
PERSON AT THE SCENE

④ DESCRIBE RANCY OF KRIS N.
DESCRIPTION BY RON. SITES.

How do we proceed without
one side giving up their
honest opinion about the
case? Each side does not
want to give up their honest
opinion about the case just to
win.

TII. 1/30/2017. 10:22:4008274

11:40
1/26/17
SA

People v. Krb Hughes
16-260154-FC

Are there any
instructions regarding
a jury that is unable
to reach a unanimous
decision?

T11.1/30/2017.10:22:4008275

9:52
1/26/17
SA

16-260154-FC
People v. Kristopher Hughes

more coffee
please

HS

Kr

~~KS~~

TII. 1/30/2017. 10:22:4008276

9:52
1/26/17
SA

16-260154-FC
People v. Christopher Hughes

where was christopher
hughes when the
police took his
phone?

Please rely on your
collective memory.

125
PT for

~~TI1. 1/30/2017. 10:22:4000277~~

1/26/17

9:23 AM

GG

16-260154-FC

People v. Christopher Hughes

Can we have all

of the evidence?

BS

HS

KV

TII.1/30/2017.10:22:4008278

1/26/17

9-11 AM

GG

White board

AT/KR

16-260154-FC
People v. Kristopher Hughes

TII. 1/30/2017. 10:22:4008279

4:15
1/25/2017
SA

People v. Kristopher Hughes
16-260154-FC

Juror B looked up
data from the
Internet and
states it affects
her decision of
the evidence

Appendix K - Juror Notes from Second Trial (1/25/17 & 1/26/17) 92a

TII.1/30/2017.10:22:4008280

1/25/17

11:30 AM

Lunch break will be
from 12-1 p.m.

Kr CP

HJ

16-260154-FC

People v. Christopher Hughes

RECEIVED by MSC 2/26/2020 2:27:31 PM

T11.1/30/2017.10:22:4008281

10:37
GL

1/25/17

16-260154-FC

People v. Christopher Hughes

Police recording case.

we will send in
a laptop shortly.

Kr

1/25

TII.1/30/2017.10:22:4008282

1/25/17

16-260154-FC

~~10:17~~
10:17
G/G

People v. Christopher Hughes

Do you preferably

have a white

board or

white paper if

not)

15

16

16-260154-FC

People v. Christopher Hughes

9:47 1/28/17

GG

You must base your decisions on the evidence presented at trial using ~~the jury~~ your collective memories and the jury instructions.

9:47

GG

1/25/17

HS

BS

LM

I have a question to the Judge if she can ask the attorney a question about the phone. The attorney mentioned something yesterday about exchanging phones. Did he mean that the K. Killer received the phone after the crime from another person? and if he did who was that person?

TII.1/30/2017.10:22:4008284

9:47

66

1/25/17

No-260154-FC

People v. Christopher Hughes

may we have
the evidence)

All of it

Kr LT

HJ

If you want to play
the 911 tape, please let
us know.

or its Kr

APPENDIX L
Plea Transcript
February 7, 2017

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

THE PEOPLE OF THE STATE OF MICHIGAN,

v

Case No. 16-260213-FH

KRISTOPHER HUGHES,

Defendant./

PLEA HEARING

BEFORE THE HONORABLE HALA JARBOU, CIRCUIT JUDGE

Pontiac, Michigan - Thursday, February 2, 2017

APPEARANCES:

For the People:

DARCEY L. JACOBS (P73155)
Oakland County Prosecutor's Office
1200 North Telegraph Road
Pontiac, Michigan 48341
(248) 858-0656

For the Defendant:

RICHARD T. TAYLOR (P55237)
Law Offices of Richard T. Taylor, PC
P.O. Box 430696
Pontiac, Michigan 48343
(586) 481-5981

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Kara Van Dam, CER #7987

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WITNESSES

None

EXHIBITS

None offered.

RECEIVED

1 Pontiac, Michigan

2 Thursday, February 2, 2017 - 2:45 p.m.

3 * * * * *

4 (Case not called on the record.)

5 MR. TAYLOR: Your Honor, at this time I was
6 wondering if we can place this on the record?

7 After the Court has allowed us to discuss this
8 matter extensively at the record (sic), considering some
9 of the factors of this case, and even some mitigating
10 factors in terms of the incident itself, Mr. Hughes' prior
11 criminal history as well as the amount of time that's he's
12 spent in Oakland County Jail waiting for trial in this
13 matter, understanding this matter is scheduled for trial
14 this coming Monday. The Court was very candid in terms of
15 Mr. Hughes' prior criminal history and that -- and
16 concerns that brought for this Court as well as the
17 alleged charges that are before this Court in conjunction
18 with his prior criminal history.

19 Based on all those factors this Court has
20 indicated that if Mr. Hughes were to enter into a plea at
21 this point, and we're respectfully asking if it could be a
22 no contest plea for possible civil liability and lack of
23 memory as it relates to some of the charges, that we --
24 the Court would consider pursuant to People versus Cobbs,
25 a sentence of no more than three years with the Michigan

1 Department of Corrections.

2 THE COURT: On the bottom end.

3 MR. TAYLOR: On the bottom end. On the bottom
4 end. And, Mr. -- Mr. Hughes and I did understand --
5 discuss that there's a possible tail that could go along
6 with this that would be proportionate and understand the
7 Court could stay within that guideline. But, as it may --
8 as it be -- as it may, Your Honor, Mr. Hughes is prepared
9 at this time and he did execute People's exhibit number
10 one. He's prepared to plead no contest as to all the
11 counts as well as the habitual fourth that he's charged
12 with at this time.

13 THE COURT: Okay. Thank you. Can you approach?

14 THE CLERK: Please raise your right hand.

15 Do you swear or affirm that the testimony you're
16 about to give is the truth and nothing but the truth?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Sir, could you state your full name
19 for the record?

20 THE DEFENDANT: Kristopher Allen Hughes.

21 THE COURT: And, how old are you?

22 THE DEFENDANT: Thirty-seven years old.

23 THE COURT: Can you read, write, and understand
24 the English language?

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: Can you hear and understand me?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Could you hear and understand your
4 attorney?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Are you satisfied with the advice
7 given by your attorney?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: All right. You understand you're
10 pleading guilty to count one, delivery and manufacturing
11 of a controlled substance --

12 MR. TAYLOR: I'm sorry, Your Honor --

13 THE COURT: Oh, I'm sorry. Yes. You're pleading
14 no contest to count one, delivery and manufacturing of a
15 controlled substance less than 50 grams. Count two,
16 delivery and manufacture of a controlled substance less
17 than 50 grams. Count one being cocaine, count two being
18 Oxycodone pills.

19 Count three, that you're pleading guilty to
20 controlled substance second or subsequent offense, double
21 penalty which is a high misdemeanor, the drug being
22 marijuana.

23 Count four, possession analogue of a controlled
24 substance, that being -- I don't know how to pronounce
25 that. Bupre --

1 MS. JACOBS: Buprenorphine. Commonly known as
2 Suboxone.

3 THE COURT: Okay, Suboxone pills.

4 Count five, possession analog of Alprazolam.
5 And, count six, possession analog of Dihydrocodeine pills.

6 You're also pleading guilty to being a habitual
7 fourth offender all of which carries a maximum penalty of
8 life and a minimum penalty of zero years and/or probation.

9 And, Mr. Taylor, I'm going to change the maximum
10 to life because of the habitual.

11 MR. TAYLOR: No objection, Your Honor.

12 THE COURT: Do you understand that?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Do you understand that also pursuant
15 to People versus Cobbs, I'm indicating to you and to Mr.
16 Taylor that I will sentence you to no more than 36 months
17 on the bottom end. So, three years to something, okay
18 they'll be a tail. I'm not telling you now 'cause I don't
19 know what the tail will be; do you understand that?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Is there a plea bargain, Ms. Jacobs?

22 MS. JACOBS: No, Your Honor.

23 THE COURT: All right. Sir, do you understand
24 you have a right to have your own lawyer represent you
25 from start to finish including trial, sentence, and

1 appeal, and a lawyer will be appointed for you if you
2 cannot afford one?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Do you understand that you have a
5 right to a trial by jury?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Do you understand that throughout the
8 trial you're presumed innocent until the prosecutor proves
9 your guilt beyond a reasonable doubt?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: Do you understand that you have a
12 right to have all the witnesses against you appear at the
13 trial, to have your lawyer ask the witnesses questions,
14 and to have a judge order any witnesses you might have to
15 appear at the trial?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: You understand you don't have to
18 testify at trial and nobody can say anything about you not
19 testifying or hold it against you?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: On the other hand you have a right to
22 testify if you wanted to, do you understand that?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Do you understand if I accept your
25 plea you'll not have a trial of any kind, you'll be giving

1 up all these rights that I've told you about, you'll be
2 giving up any claim that the plea was a result of promises
3 and threats that were not disclosed to the Court or that
4 it was not your choice to plead?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: You understand that any appeal from
7 the conviction and sentence following the plea will be by
8 application for leave to appeal and not by right?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Do you understand that a plea means
11 you have a conviction and that it may be used against you
12 in the future?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Do you understand that if you're on
15 probation or parole this plea could affect your status?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Has anyone threatened you to get you
18 to plead?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: Is it your own choice to plead?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Are you a U.S. citizen?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: And, so I have to advise you that if
25 you weren't this plea could also affect your immigration

1 status, do you understand?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: What are we using as a factual basis?

4 MS. JACOBS: Your Honor, I'll give defense
5 counsel -- I'll tender a copy of the police report in this
6 matter. It's CR number 16-0140555 and it's the Oakland
7 County Sheriff's Office report.

8 THE COURT: I don't need to see it if there's a
9 stipulation.

10 MR. TAYLOR: There's a stipulation.

11 THE COURT: And, you stipulate that that meets
12 the factual basis for all the charges?

13 MR. TAYLOR: Yes, Your Honor.

14 THE COURT: Okay. Has the Court complied -- oh
15 no. Hang on, I'm sorry.

16 Sir, were you previously convicted of possession
17 of a controlled substance less than 25 grams, sentenced on
18 February 13th, 2014, in Oakland County Circuit Court?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Of assault with the intent to do
21 great bodily harm less than murder sentenced on June 17th,
22 2010, in Oakland County Circuit Court?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: And, of being a felon in possession
25 of a firearm June -- sentenced June 15th, 2010, in Oakland

1 County Circuit Court?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: Has the Court complied?

4 MS. JACOBS: Yes, Your Honor.

5 MR. TAYLOR: I'm satisfied, Your Honor.

6 THE COURT: Is either the prosecutor or the

7 defense attorney aware of any promises, threats, or

8 inducements other than those already disclosed on the

9 record?

10 MS. JACOBS: No, Your Honor.

11 MR. TAYLOR: No, Your Honor.

12 THE COURT: The Court accepts the plea is freely,

13 voluntarily, understandingly given. Sentencing February

14 27th at 1:00 p.m.

15 When is the trial date on his other --

16 MR. TAYLOR: The 27th.

17 THE COURT: It is? Okay.

18 We could either do it then or do you want to --

19 I mean I could --

20 MR. TAYLOR: Can we do it the week after?

21 THE COURT: Yeah, March sixth. March sixth at

22 1:00 p.m.

23 Can I have you approach again, both of you?

24 (At 2:53 p.m., bench conference off the record.)

25 (At 2:55 p.m., bench conference concluded.)

1 THE COURT: Thanks.
2 MR. TAYLOR: Thank you, Judge.
3 THE COURT: Deputies, thank you for accommodating
4 us.
5 THE DEPUTY: No problem, Your Honor.
6 THE CLERK: All rise.
7 (At 2:55 p.m., proceeding concluded.)
8 * * * * *

STATE OF MICHIGAN)
COUNTY OF OAKLAND)ss.

I certify that this transcript is a true and accurate transcription to the best of my ability of the proceeding in this case before the Honorable Hala Jarbou, as recorded by the clerk.

Proceedings were recorded and provided to this transcriptionist by the Circuit Court and this certified reporter accepts no responsibility for any events that occurred during the above proceedings, for any inaudible and/or indiscernible responses by any person or party involved in the proceeding or for the content of the recording provided.

Dated: May 11, 2017

Kara Van Dam / S. J.

Kara Van Dam, CER #7987

APPENDIX M
Excerpt of Jury Trial
February 27, 2017

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

THE PEOPLE OF THE STATE OF MICHIGAN,

v

Case No. 16-260154-FC

KRISTOPHER HUGHES,

Defendant./

JURY TRIAL - VOLUME I

BEFORE THE HONORABLE HALA JARBOU, CIRCUIT JUDGE

Pontiac, Michigan - Monday, February 27, 2017

APPEARANCES:

For the People:

KELLY M. COLLINS (P58638)
Oakland County Prosecutor's Office
1200 North Telegraph Road
Pontiac, Michigan 48341
(248) 858-0656

For the Defendant:

RICHARD T. TAYLOR (P55237)
Law Offices of Richard T. Taylor, PC
P.O. Box 430696
Pontiac, Michigan 48343
(586) 481-5981

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None	
<u>EXHIBITS</u>	<u>RECEIVED</u>
None offered.	
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1 Pontiac, Michigan

2 Monday, February 27, 2017 - 8:53 a.m.

3 * * * * *

4 THE CLERK: Now calling case number 16-260154-FC,
5 People v Kristopher Hughes.

6 MS. COLLINS: Good morning, Assistant Prosecutor,
7 Kelly Collins appearing on behalf of the People.

8 MR. TAYLOR: Good morning, Your Honor. Richard
9 Taylor on behalf of Mr. Kristopher Hughes.

10 As for now I will waive his presence for any
11 preliminary discussions that we've had.

12 THE COURT: Thank you.

13 So, Ms. Collins indicated she has some
14 additional exhibits. You're going to have objections to
15 those?

16 MR. TAYLOR: Yes.

17 THE COURT: Okay. Do you want to -- we can do
18 this with Mr. Hughes here but do you want to handle those
19 prior to picking or do you --

20 MR. TAYLOR: Well, I guess once -- once he's
21 brought up I guess at that point in time prior to the jury
22 coming in I guess we can handle it at that point. So, we
23 can make it work.

24 THE COURT: We'll -- we'll handle both those
25 things.

1 Then we'll bring him up -- well did Sumee (ph)
2 go down?

3 THE CLERK: He probably already left.

4 THE COURT: We'll bring him up and, you know, he
5 may end up waiting for a little bit before we get a jury
6 but hopefully we can get one by 9:00.

7 We'll bring him up and get it started again.

8 MS. COLLINS: Does the Court have the preliminary
9 instructions? I did not print out a new copy but I
10 anticipate that they'll be the same. I can print out a
11 clean copy of the final packet and bring that in tomorrow
12 morning, but as far as the preliminary.

13 THE COURT: Okay. Well, I have a packet. I'm
14 assuming, I don't know if this is from the -- well we'll
15 take a look. But, I do have 1.08 in my preliminary. So,
16 we'll go from there.

17 All right. We'll see you in a few. Thanks
18 guys.

19 (At 8:55 a.m., proceeding recessed.)

20 (At 9:04 a.m., proceeding reconvened.)

21 THE CLERK: Now calling case number 16-260154-FC,
22 People v Christopher Hughes.

23 THE COURT: All right. Thank you. Everyone
24 please be seated.

25 MS. COLLINS: Good morning, Your Honor.

1 Assistant Prosecutor Kelly Collins appearing on behalf of
2 the People.

3 MR. TAYLOR: Good morning, Your Honor. If it may
4 please this Honorable Court, Richard Taylor on behalf of
5 Mr. Kristopher Hughes.

6 THE COURT: Thank you. All right. This is the
7 date and time for the trial.

8 I understand there's some things we need to put
9 on the record?

10 MS. COLLINS: Yes, Your Honor. Between the last
11 trial and today's date Mr. Taylor and I have had some
12 discussions with regard to potential resolutions of this
13 case. A couple of things I have brought to Mr. Taylor's
14 attention which I believe we'll be discussing at some
15 point, but I brought to Mr. Taylor's attention my
16 intention to bring in some additional exhibits from the
17 cell phone forensic report that has previously been
18 discussed via testimony of Detective Wagrowski, but some
19 additional documents from that forensic report. I've
20 provided those to Mr. Taylor for review just because the
21 report is so voluminous. So, it's information that we've
22 had but I honed in on it and provided that to Mr. Taylor.

23 THE COURT: So, wait hold on. This is
24 information in the report?

25 MS. COLLINS: Correct.

1 THE COURT: Did you -- are you seeking to admit
2 the whole report?

3 MS. COLLINS: No, no. And, the reason for that
4 is because, and I think Mr. Taylor and I have discussed
5 that, that cell phone was seized during a drug raid and
6 rather than open it up to this jury examining information
7 about drug dealings and things of that nature, we tried to
8 focus in on things that would be more relevant to this
9 particular --

10 THE COURT: That's fine if you have an agreement
11 as to that. So, there's a portion of the report that you
12 want to bring in?

13 MS. COLLINS: Yes.

14 THE COURT: Is there an objection?

15 MR. TAYLOR: Yes.

16 THE COURT: What's the objection?

17 MR. TAYLOR: Your Honor, the objection again.
18 Although it is a report that I've had for a while and
19 again as Prosecutor Kelly Collins indicated, a lot of that
20 file is in reference to the drug case that Mr. Hughes has
21 already, you know pled to in front of this Court and we're
22 awaiting sentence on.

23 THE COURT: Right.

24 MR. TAYLOR: But, as it relates to the
25 information that she wants to bring from that phone,

1 although we've brung (sic) some of the information in in
2 previous trials as it relates to some of the text
3 messages, these -- this information again I believe at
4 this point is -- is -- it's not relevant in terms of the
5 timing as far as how long this phone -- again how long
6 we've had this information, how it's dated in reference to
7 whether it be photographs as well as -- and I believe that
8 there may be some text messages that will be sought to be
9 brought into this particular -- some additional text
10 messages.

11 THE COURT: Okay, well I'm assuming --

12 MR. TAYLOR: So --

13 THE COURT: I'm assuming that they want to try to
14 link up this phone with the defendant?

15 MS. COLLINS: That is correct.

16 THE COURT: Okay. So, the objection is that it's
17 not relevant when --

18 MR. TAYLOR: Just --

19 THE COURT: Go ahead.

20 MR. TAYLOR: I'm sorry, I didn't meant to cut you
21 off.

22 THE COURT: No, no, no. Go ahead.

23 MR. TAYLOR: Yes, that it is not relevant in that
24 -- in and of itself, I should additionally that it may be
25 stale because in reference to, again, when the phone --

1 when the phone was confiscated from Mr. Hughes --

2 THE COURT: And, this was -- what's the time
3 period between this offense and the drug case?

4 MS. COLLINS: This offense occurred August sixth,
5 the phone was seized August 12th of 2016.

6 THE COURT: Okay.

7 MR. TAYLOR: And, the information that is -- that
8 is sought to be introduced is dated -- I mean is dated
9 well prior to August sixth --

10 THE COURT: Okay.

11 MR. TAYLOR: -- to dates I think back from May
12 until may July. I think there may be some information
13 that's up to that week of August, but in reference as to
14 what this information -- the dates of this information it
15 may cause it to be stale in -- in reference to the date
16 August sixth, the date in question, and the ultimate
17 question as to whether or not Mr. Hughes had that phone in
18 his possession on August the sixth.

19 THE COURT: But, certainly -- he has the phone in
20 his possession on August 12th, correct?

21 MR. TAYLOR: Yeah.

22 THE COURT: During the drug raid. And, so at
23 least it's identified with him, on him, on that date. Any
24 other information that comes from it whether it's from six
25 days prior when the offense is or prior to that when this

1 offense occurred, obviously I assume she's going to try to
2 link up however she can and you can -- those are all
3 things that you can on cross-examination question the
4 examiner. And, then it's really up to the jury whether he
5 had it in his possession six months before, a year before.
6 It is relevant in the sense that obviously it's in his
7 possession on August 12th, it is a phone that's linked to
8 him. If there is some link or some further indentifying
9 information as to that phone, I'm going to allow that to
10 be presented and you can certainly cross-examine as it
11 relates to any sort of time period or any other issues,
12 but it certainly is relevant in the sense that identity is
13 and could be an issue in this case.

14 MR. TAYLOR: And, again Judge, and I guess one
15 additional thing would be and I don't think in the two
16 previous trials nor at any point, and I don't think at
17 this particular trial, that there is going to be any
18 information that actually shows that the phone is in Mr.
19 Hughes' name and that he -- that there's a -- I guess
20 that's more of an ownership argument as opposed to a
21 possession argument. So -- but at least that's part -- I
22 guess in terms of cross-examining the examiner of the
23 phone, I can cross-examine them.

24 THE COURT: Right.

25 MR. TAYLOR: But, I just want to make sure we

1 place that on the record right now as far as it relates to
2 our objection to the introduction of this information.

3 THE COURT: Okay. All right. And, I assume
4 there's -- 'cause I don't remember from the past, I
5 should, from the last two trials, the information that was
6 admitted as it relates to that phone was what?

7 MS. COLLINS: The information -- we took
8 testimony that the phone was seized from the defendant on
9 May 12th. We took testimony that --

10 THE COURT: August 12th?

11 MS. COLLINS: I'm sorry, August 12th, I know I
12 said May. And, we took testimony as it relates to the
13 forensic evaluation and the extraction and we specifically
14 honed in on extraction of any text messages and/or phone
15 calls --

16 THE COURT: From the offense date?

17 MS. COLLINS: On the -- on -- on or around the
18 offense date specifically from or to and from I'm sorry,
19 Ms. Weber, Lisa Weber and/or Mr. Stites.

20 THE COURT: Okay.

21 MS. COLLINS: That's what we honed in on during
22 the first couple of trials.

23 THE COURT: Okay. I'll allow it and obviously
24 Mr. Taylor you can object --

25 MR. TAYLOR: Thank you.

1 THE COURT: -- or do whatever you need to do in
2 front of the jury.

3 Anything else?

4 MS. COLLINS: With regard to the offer that I had
5 made and I -- I -- the People had made an offer. Right
6 now Mr. Hughes stands charged with armed robbery as a
7 habitual fourth offender under what's coined as the super
8 hab statute, making him -- he's subject to a mandatory
9 minimum of 25 years should he be found guilty. My offer
10 was to dismiss the "super hab" and have him plead as
11 charged to the armed robbery with a regular habitual
12 fourth offender and with a -- with a sentence starting at
13 10 years which is below, I believe, I can double-check,
14 which is below what would -- I'm sorry it's not below but
15 the guidelines would be, if I scored them correctly, 108
16 to 360, and I offered with a minimum sentence of 10 years
17 on the bottom and then the Court can decide on the maximum
18 under that statute.

19 It's my understanding the defendant does not
20 wish to avail himself of that offer.

21 THE COURT: Okay. Mr. Hughes, can you please
22 stand up?

23 Swear him in.

24 THE CLERK: Please raise your right hand. Do you
25 swear or affirm that the testimony you're about to give is

1 the truth and nothing but the truth?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you want to voir dire him or do
4 you want me to?

5 MR. TAYLOR: Mr. Hughes, you -- you understand
6 that as the prosecutor stated on the record you're facing
7 an armed robbery charge which the maximum sentence is life
8 in prison; you understand that?

9 THE DEFENDANT: Yes, sir.

10 MR. TAYLOR: And, you understand that because of
11 the habitual fourth enhancement statute that if you are
12 convicted of the armed robbery charge you're facing a
13 minimum of 25 years with the Michigan Department of
14 Corrections?

15 THE DEFENDANT: Yes, sir.

16 MR. TAYLOR: The prosecutor has indicated on the
17 record, and I've expressed this to you at the Oakland
18 County Jail, that if you were to plead guilty to the one
19 count -- or plead to the one count of armed robbery with
20 the habitual fourth they would dismiss the super hab
21 portion of the habitual fourth and that she would, if
22 agreed upon by Judge Jarbou that you would be looking at a
23 minimum of 10 years.

24 THE DEFENDANT: Yes, sir.

25 MR. TAYLOR: And, at this point in time you are -

1 - are rejecting that deal and you're not accepting that at
2 this time?

3 THE DEFENDANT: Yes, sir.

4 MR. TAYLOR: And, you wish -- you wish to proceed
5 to trial?

6 THE DEFENDANT: Yes.

7 THE COURT: Mr. Hughes, have you thoroughly
8 discussed this offer with your attorney?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: And, you've sought his advice as it
11 relates to that offer?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: You know ultimately obviously it's
14 your decision whether you accept that offer or not?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: And, you understand that if you are
17 convicted I have no choice in the matter but you'll be
18 sentenced to 25 years mandatory minimum on this case? Do
19 you understand that?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: Okay. And, if that -- if that does
22 happen you know that if you later then can't come to me
23 and say that you didn't discuss this with Mr. Taylor or he
24 didn't do this or he didn't do that or you didn't
25 understand the full details. I'm going to reject that

1 argument because you're telling me that you fully
2 discussed it with Mr. Taylor, that you understand what the
3 offer is, and you understand what the consequences are if
4 you forego that offer and are convicted, is that correct?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Okay. Do you have any questions of
7 me as it relates to that or of your attorney?

8 THE DEFENDANT: No, ma'am.

9 THE COURT: All right. You're ready to proceed
10 to trial?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Okay.

13 MR. TAYLOR: I guess the other thing we need to
14 place on the record that if he were to accept the sentence
15 it would run concurrent --

16 THE COURT: Correct.

17 MR. TAYLOR: -- with any other sentence that this
18 Court may give out in reference to the other case.

19 THE COURT: You understand that? Do you
20 understand what that means?

21 THE DEFENDANT: Yes, I do.

22 THE COURT: Okay. So, they wouldn't be stacked
23 one on top of the other, they would be -- you'd be serving
24 them at the same time.

25 THE DEFENDANT: Yes, ma'am.

1 THE COURT: Okay. All right. And, you want to
2 proceed to trial?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Okay. So, the jurors are on their
5 way up.

6 Anything else that we need to take care of?

7 MS. COLLINS: I don't believe so, Your Honor.

8 THE COURT: Sometimes it's hard for them to go
9 from the first floor to the third floor. I don't know
10 why. It's just going up an elevator or going up some
11 stairs, but.

12 THE CLERK: All rise for the jury.

13 (At 9:27 a.m., potential jurors entered
14 courtroom.)

15 THE COURT: You guys can go further back.

16 You can stay in the back row if you like.

17 Thank you everyone. Please be seated.

18 Good morning ladies and gentlemen. My name is
19 Judge Hala Jarbou and it's my pleasure and privilege to
20 welcome you to the Oakland County Circuit Court.

21 I know that jury duty may be a new experience
22 for some of you. Jury duty is one of the most serious
23 duties that members of a free society are asked to
24 perform. Our system of self-government could not exist
25 without it.

APPENDIX N
Jury Trial
February 28, 2017

Appendix N - Jury Trial (2/28/17) 127a

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

THE PEOPLE OF THE STATE OF MICHIGAN,

v

Case No. 16-260154-FC

KRISTOPHER HUGHES,

Defendant./

JURY TRIAL - VOLUME II

BEFORE THE HONORABLE HALA JARBOU, CIRCUIT JUDGE

Pontiac, Michigan - Tuesday, February 28, 2017

APPEARANCES:

For the People:

KELLY M. COLLINS (P58638)
Oakland County Prosecutor's Office
1200 North Telegraph Road
Pontiac, Michigan 48341
(248) 858-0656

For the Defendant:

RICHARD T. TAYLOR (P55237)
Law Offices of Richard T. Taylor, PC
P.O. Box 430696
Pontiac, Michigan 48343
(586) 481-5981

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Kara Van Dam, CER #7987

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Pontiac, Michigan

Tuesday, February 28, 2017 - 8:55 a.m.

* * * * *

THE CLERK: Calling People versus Kristopher Hughes, case number 2016-260154-FC.

MS. COLLINS: Good morning, Your Honor.
Assistant Prosecutor Kelly Collins appearing on behalf of the People.

MR. TAYLOR: Good morning, Your Honor. If it may please this Honorable Court, Richard Taylor on behalf of Kristopher Hughes who is present.

THE COURT: Good morning.

So, I informed counsel this morning that we received a call from juror in seat number two a little after 8:00 indicated that she had -- that her babysitter cancelled on her and that she couldn't come in. We told her to look for someone else, and I believe she's been trying to do that, but those were the instructions we gave her from about a little after 8:00.

And, when was the last time we spoke with her?

THE CLERK: About 8:30, 35.

THE COURT: So, as of 8:30, 8:35, we had told her -- she had indicated she hadn't found anybody, we told her to keep looking. So, we know that that -- I don't know what the likelihood of her getting another babysitter is,

1 but regardless we've told her to find someone and to make
2 it in.

3 So, she's not here but the other 13 jurors --
4 the 13th one finally arrived a few minutes ago, the other
5 13 jurors are here. And, so my question to both counsel
6 is how do you want to proceed? Should we proceed with 13?
7 Obviously it's not going to be a lengthy trial but
8 typically this is why I picked 14. I don't know what the
9 likelihood of her finding a babysitter and in what
10 timeframe that's going to happen.

11 So, Ms. Collins? Mr. Taylor?

12 MR. TAYLOR: Your Honor, I had the opportunity to
13 discuss the matter with my client and told him what the
14 situation was, and he indicated that he has no issue with
15 going forward with the 13.

16 THE COURT: Ms. Collins?

17 MS. COLLINS: Nor do the People.

18 THE COURT: Okay. Then are we ready to proceed
19 to openings?

20 MR. TAYLOR: Yes, Your Honor.

21 MS. COLLINS: I believe so, yes.

22 THE COURT: Okay. Let's bring them in.

23 Oh, I'm sorry we do have to place also on the
24 record, we received a note yesterday at what time?

25 THE CLERK: (Indiscernible).

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1 THE COURT: So, at about -- at 12:25 after we had
2 adjourned one of the jurors who was still left asked --
3 wrote a note that indicated "time expected to be here
4 tomorrow" which I thought I had clearly indicated. So, I
5 put down the schedule as 8:30 a.m. to 4:30 p.m. with
6 appropriate breaks and sent that back in. So, if you want
7 to take a look at the note.

8 I'll reiterate with them what the schedule is.

9 THE CLERK: All rise for the jury.

10 (At 8:59 a.m., jury entered courtroom.)

11 THE COURT: All right. Thank you. Please be
12 seated everyone.

13 Good morning.

14 THE JURY: Good morning.

15 THE COURT: So, ladies and gentlemen, when I --
16 when we broke yesterday I told you that -- I just want to
17 reiterate our schedule. So, we're going to go till 4:30
18 today. We'll take a lunch break from 12:00 to 1:00.
19 We'll take a morning break at about 10:30 and an afternoon
20 break mid-afternoon. And, then tomorrow we'll see how --
21 I guess how far we get today and I'll let you know what
22 the schedule is tomorrow.

23 And, as you can see 13 of you are here as
24 opposed to 14. One juror, in seat number two, has had
25 some issues this morning. We're dealing with but the

1 parties have decided to go with -- I always pick two
2 alternates because I never know what's going to happen and
3 that's one of the main reasons. But, we're going to
4 proceed with 13 jurors. There's -- obviously one of you
5 will end up being an alternate. But, the importance of
6 everyone being here is that because sometimes emergencies
7 come up and we need 12 and we have to proceed with 12, so
8 it does affect what we can and can't do obviously if -- if
9 you can't be here or if you're not here. And, it also --
10 being here timely, and I understand traffic and weather
11 and obviously within limits, but we can't get started
12 obviously unless everyone is here. So, I would just ask
13 that you be considerate of everyone's time so that we can
14 all get started and -- and move forward.

15 Okay. Thank you very much.

16 We're going to get started with opening
17 statements, Ms. Collins.

18 MS. COLLINS: Thank you.

19 PEOPLE'S OPENING STATEMENT - 9:01 A.M.

20 MS. COLLINS: Ladies and gentlemen we are about
21 to begin this trial and you are about to embark on a
22 journey and learn of the events of August sixth, 2016,
23 here in the City of Pontiac in Oakland County. And,
24 you're going to hear from Ronald Stites. It's the events
25 of August sixth, 2016, and the defendant Kristopher

1 Hughes' involvement in those events, that bring us here
2 with this charge of armed robbery.

3 Mr. Hughes is accused of committing armed
4 robbery against Mr. Stites at Mr. Stites' home over on
5 West Rutgers Avenue. You'll first hear from Ronald Stites
6 and he'll tell you about the events as he recalls them.
7 As you met Mr. Stites you're going to notice that he's an
8 elderly gentleman, he's not extremely educated, and he's
9 got some medical issues and some memory issues. I fully
10 expect that you will hear that and that will be evident
11 from his testimony.

12 But, what I expect you'll hear from him is that
13 on that particular evening, late in the evening, he was
14 out walking. He'll tell you a little bit about his
15 medical issues and why he walks the way he does, but he
16 was out walking and he encountered Lisa Weber. You'll
17 hear from Mr. Stites that he didn't know Lisa Weber's name
18 but that she advised him that they had met before, but
19 that he was aware that she was a prostitute through their
20 conversations and that they had made arrangements to go
21 back to his house and engage in acts of sexual -- of a
22 sexual nature in exchange for money.

23 You'll hear how they went back to his house and
24 how he paid her some funds and how she at one point left
25 his home, purportedly to go get something to drink or eat,

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1 and how she returned later. And, when she returned later
2 they did engage in drug use -- well, let me back up. How
3 when they -- how when she returned later they watched TV,
4 she drank some coffee, they had a little chit-chat, things
5 of that nature. They didn't get right to the sexual acts.

6 You'll also hear about the fact that Lisa Weber
7 ordered up some -- some drugs. I believe that you'll hear
8 it was crack cocaine. And, that at some point that
9 evening a man delivered those drugs to Mr. Rutger's (sic)
10 home and he gave her money for those drugs and that Lisa
11 Weber paid the drug dealer and got the drugs and the drug
12 dealer left.

13 After the drug dealer left you'll hear that Mr.
14 Stites and Ms. Weber engaged in the use of that crack
15 cocaine and then they began to engage in sexual acts in
16 his bedroom. Moments after they engaged in those sexual
17 acts she indicated that she needed to leave the room, go
18 get a glass of water, and she returned. They began
19 engaging in sexual acts again and no sooner had she
20 returned than the man that had come to deliver the drugs
21 earlier was in his bedroom doorway armed with a gun
22 telling Mr. Stites to face down on the -- on the mattress.

23 You'll hear from Mr. Stites that he had his face
24 down in the mattress. He didn't get a good look at the
25 man himself. He gave a general description later to the

1 police of a black man of larger build and you'll hear
2 those pieces of information from Mr. Stites as well as
3 from the 911 call, as well as from the responding officer
4 Deputy McNeary.

5 You'll hear about Mr. Stites being on the bed.
6 You'll hear about what he heard and I fully expect that
7 you'll hear from Mr. Stites that he is absolutely
8 convinced that both the prostitute who we now know as Lisa
9 Weber as well as the drug dealer man were the persons that
10 robbed him that night and that both were involved. That I
11 expect that you'll hear from Mr. Stites is his absolutely
12 belief.

13 But, you'll hear what he heard, you'll hear how
14 he was tied up, albeit loosely but tied up while he was on
15 the bed. You'll hear how he heard noises and rustling
16 around the room as if they were looking for something.
17 You'll hear about what was being said in that room. But,
18 ultimately what was gone from his home was a personal safe
19 that he had and you'll hear about the contents of that
20 safe and the contents of that safe including cash money,
21 including some cards, some -- some things that are of
22 value, other things that are not, but everything that
23 you'll hear is that it all belonged to Mr. Stites. It was
24 his property.

25 Now, we're here today because the charge is

1 armed robbery. And, we've talked a little bit during the
2 jury selection about crimes being made up of parts called
3 elements and you will hear that throughout this trial from
4 the instructions from the Judge. You've already heard it
5 I think once or twice in the preliminary instructions and
6 you'll hear it again at the end of this trial when the
7 Judge gives you the final instructions.

8 But, the elements of armed robbery is the taking
9 of someone else's property through force or coercion. Now
10 force or coercion -- or force or violence, I'm sorry.
11 And, force or violence can come in different shapes and
12 sizes, but the force or violence is either putting someone
13 in fear that they're going to be assaulted like pointing a
14 gun at them, or physically using force or violence in
15 order to gain control over their -- their valuables or
16 their property.

17 You're also going to hear that an element is --
18 in armed robbery is that the person who is committing the
19 armed robbery is armed with a dangerous weapon. Either a
20 dangerous weapon that's automatically a dangerous weapon,
21 it's designed to be a dangerous weapon, like a gun, or any
22 object that is used or fashioned in such a way as to make
23 the person who's being threatened believe it's a weapon.
24 So, whether it's a stick, whether it's a finger in my
25 pocket pretending to be a gun, something that puts the

1 person in fear, and in this case Mr. Stites, the person in
2 fear that they're going to be assaulted or that they're in
3 harm's way. Any of those things can qualify as being
4 armed with a weapon. And, you'll hear about that more as
5 we -- as we move along. But, those are the elements of --
6 of the crime of armed robbery.

7 That is what the testimony will focus on. I
8 don't expect during this trial that there will be a
9 question about whether or not an armed robbery occurred
10 against Mr. Stites on August sixth. What the question --
11 the ultimate question that I expect to be -- each and
12 every one of you to decide is whether it was the defendant
13 who was the male part of that armed robbery who was armed
14 with a weapon on August sixth, 2016.

15 Now, you'll hear from Lisa Weber. You'll hear
16 how first the officers responded and it was Deputy McNeary
17 who came to the home. You'll hear what Deputy McNeary did
18 in response to the 911 call and how he took information
19 from Mr. Stites at that time. You'll hear that Mr. Stites
20 didn't know the prostitute's name, gave a general
21 description of that person, but also alerted Deputy
22 McNeary, and the Oakland County Sheriff's Office through
23 this 911 call, that there might be pieces of evidence
24 we'll call them, but items in his home that that
25 prostitute had touched that might be of help to the police

1 in identifying the female that was there.

2 You'll hear the description that he gave about
3 the male and that in -- and don't expect that Mr. Stites
4 is going to be able to tell you that this man is the one
5 who was at his home that day with the gun.

6 What I expect you'll hear is Deputy McNeary
7 came, took pieces of evidence, took photographs from Mr.
8 Stites' home, and the police embarked on an investigation.
9 And, they followed that investigation and the information
10 to where it led. You'll hear from Lieutenant Troy that in
11 the course of that investigation while they submitted
12 items from Mr. Stites' home for fingerprint analysis he
13 also did additional investigation. Went around and
14 knocked on doors or tried to locate known prostitutes in
15 the Pontiac area that fit the description that Mr. Stites
16 had given.

17 And, you'll hear that Lieutenant Troy made
18 contact with Lisa Weber and that ultimately that Lisa
19 Weber admitted that she was in fact the female that was
20 there at Mr. Stites' home. You'll hear from Ms. Weber.
21 You'll hear from her that she's been made no promises
22 about whether or not she's going to be prosecuted and she
23 understands that she could be accused and is being accused
24 of that.

25 You'll hear from Ms. Weber though that she came

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1 to the police, she spoke with them, and she told them what
2 she knew. And, don't expect that you'll hear from Ms.
3 Weber an admission that she was involved in this crime. I
4 expect that you'll hear from Ms. Weber that she did not
5 rob Mr. Stites.

6 The Judge is going to give you an instruction at
7 the end of this trial that talks about disputed accomplice
8 testimony, okay. And, that's what we call Lisa Weber.
9 She disputes that she was actually an accomplice in this
10 crime itself. The Judge is going to give you an
11 instruction as to how you look at a witness's testimony
12 when they are a disputed accomplice.

13 Ultimately, ladies and gentlemen, I'm not going
14 to stand before you and ask you to make a determination
15 whether she was or was not involved in this crime. I will
16 remind you at the end of this trial that Lisa Weber is not
17 the person on trial. The information that is important
18 that Lisa Weber provides to the police you'll hear is the
19 fact that the person that she purchased the drugs from
20 that night who came to Mr. Stites' home was in fact a
21 person that she knew by the name of Killer, by the street
22 name of Killer or K-1.

23 You'll hear that it was a person that she
24 regularly bought drugs from and that she bought drugs from
25 him that night, he came to Mr. Stites' home. And, I

1 believe that you'll hear from Ms. Weber that that is the
2 person that was in the bedroom doorway all of the sudden
3 armed with a gun and who robbed Mr. Stites, and that is
4 what she told the police. She gave a description, she
5 told them his street name that he went by, and you'll hear
6 from Lieutenant Troy that the police also -- or he went
7 back and -- and in his experience as a Pontiac police
8 officer and now an Oakland County Sheriff, he keeps sort
9 of a -- crib notes if you will of people he's come into
10 contact with and street names that are -- that these
11 people are known by. And, in referring to that list he
12 found a person who had that street name who fit the
13 general description that both Mr. Stites had given and the
14 more specific description that Lisa Weber had given. And,
15 when he shows Lisa Weber a picture and asks her is this
16 the person that you're talking about as far as you knowing
17 him as a Killer, and she indicates yes.

18 Ladies and gentlemen, you will hear through the
19 evidence during this trial that that person is Kristopher
20 Hughes and that Lisa Weber is extremely familiar with
21 Kristopher Hughes and that she is 100 percent certain that
22 Kristopher Hughes is the person that was in Mr. Stites'
23 bedroom in his home that day armed with a gun and robbing
24 Mr. Stites of his safe at gunpoint.

25 Now, at the end of this trial I'm going to be

1 asking you to find the defendant guilty. And, it's not
2 going to be based solely on Lisa Weber's testimony, but
3 that portion of the testimony is going to be very
4 important for you to take note of. And, whether or not,
5 again, you believe what she says about her involvement in
6 the armed robbery, what I'll be asking you to do is take
7 into consideration the testimony that she's given and the
8 information that she provided to the police about who else
9 was involved that day and that night.

10 You will also hear through the testimony from a
11 Deputy Janczarek. And, he will indicate to you that in an
12 unrelated investigation on August 12th, six days after the
13 armed robbery, that a particular phone was seized as a
14 result of a search warrant, seized from Mr. Hughes'
15 person. And, that phone was forensically analyzed by a
16 Detective Wagrowski and you'll hear from Detective
17 Wagrowski. And, as a result of that forensic analysis of
18 the cell phone specifically as it relates to this
19 particular case, what you'll see and what you'll receive
20 in to evidence I expect are logs of phone calls linking
21 the defendant Kristopher Hughes with Lisa Weber through
22 both phone calls and texts.

23 And, in those texts specifically and in those
24 phone calls they will link him to Lisa Weber, they will
25 link him to the night in question, August sixth, 2016,

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1 phone calls between the two and text messages. And, I
2 believe -- or I submit that the evidence that you'll hear
3 is that there were text messages exchanged between the
4 two, Lisa Weber and the defendant, Kristopher Hughes,
5 relating to Mr. Stites' home and opening the door and the
6 fact that Mr. Stites had flat screen TVs and things of
7 that nature. And, I submit to you that when you take Lisa
8 Weber's testimony in conjunction with the physical
9 evidence that was achieved through the forensic analysis
10 of the cell phone found on Mr. Hughes, you will come to
11 the determination that as it relates to the identity of
12 the person who was involved in the armed robbery on August
13 sixth, beyond a reasonable doubt you will find that it is
14 the defendant Kristopher Hughes.

15 And, at the end of this trial after you've heard
16 all of the evidence in this case I will once again have
17 the opportunity to stand before you, talk about the
18 evidence that you've heard, and ask you to go back to the
19 jury room and I have full faith that I will be standing
20 here before you asking you to find the defendant guilty as
21 charged of that armed robbery.

22 Thank you.

23 THE COURT: Mr. Taylor?

24 MR. TAYLOR: Thank you, Your Honor.

25 DEFENDANT'S OPENING STATEMENT - 9:15 A.M.

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1 MR. TAYLOR: Again, good morning.

2 Still look enthusiastic and I hope you feel
3 enthusiastic because I believe that during the course of
4 this trial -- again I want to say thank you. Those of you
5 that came, you took the oath yesterday, and I know that
6 you're going to uphold the obligation that you have taken
7 before this Court and be fair and impartial and keep an
8 open mind. And, that's all we can ask. We ask you to be
9 candid in your -- in your discernment of the testimony, of
10 the exhibits that are submitted. We ask that you do that
11 with the obligation that you took yesterday. 'Cause I do
12 believe that when you look at the testimony and you hear
13 all the evidence that's been -- that will be presented in
14 this case, at the end of this trial the 12 of you that
15 also get the opportunity to deliberate will find that Mr.
16 Hughes did not participate in any armed robbery of Mr.
17 Stites on August sixth, 2017 -- I'm sorry, 2016, at the
18 address of 17 West Rutgers.

19 Now, just imagine, it's August sixth, early
20 morning hours, Mr. Stites who is a very older gentleman
21 had some physical ailments that he was dealing with at the
22 time and he still currently deals with. He decides that
23 because of his illness he talks a walk along the street,
24 along his block, Rutgers. And, Rutgers runs east and west
25 in the City of Pontiac on the north side of Pontiac. It's

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1 just north of Columbia but south of Walton. You're
2 probably not familiar with that area but that's the area
3 near Baldwin Street. So, he generally walks to the
4 corner, then he'll turn around and walk back home in order
5 to exercise his legs.

6 Unfortunately on this night when he decides to
7 make this walk he runs into one Lisa Weber. Now, Lisa
8 Weber who as the prosecutor indicated, is a known
9 prostitute within the City of Pontiac and at that time was
10 on, and admittedly, on a crack binge. She had just
11 received her check -- her stipend or whatever it was, her
12 assistance, earlier that week and she had spent
13 approximately \$700 on crack cocaine up until the point
14 that she had ran into Mr. Stites. And, she was either --
15 either looking for opportunities to make money to buy more
16 drugs or whatever it may have been in order to get more
17 drugs on that particular occasion.

18 So, when she met -- ran into Mr. Stites as he's
19 walking along and they engage each other, he asked her
20 does she want to go back to his house. And, they had at
21 least started negotiating what type of sexual favors she
22 would perform once she got back to his home.

23 She gets back to the home with Mr. Stites, they
24 start to talk. They indicate what the sexual favor is.
25 Now, Mr. Stites embarrassingly so is going to tell you he

1 was pretty much impotent and that the sexual favor was
2 going to be him performing oral sex on Ms. Weber. But,
3 before they got to that they kind of got comfortable with
4 each other. What Ms. Weber is going to indicate that she
5 knew Mr. Stites, that she had been to his house before,
6 and Mr. Stites is going to indicate that months earlier
7 that he had engaged her for the same type of services, but
8 it had been months but she had been to his home before.

9 She gets to his house and unknowingly to him
10 when they start to negotiate the price for what the sexual
11 favor is going to be, more or less the oral sex is going
12 to be, he has a safe in his room. And, you're going to
13 hear from Ms. Stites and he's going to indicate to you
14 that that safe contained over \$4,000 and some other items
15 that were given to him and other sentimental items that he
16 kept in that safe. And, he believed that he secretly got
17 into the safe to get the money in order to pay Ms. Weber.

18 Ms. Weber is looking over his shoulder, peaking
19 through the door, sees the safe, he pulls out the entire
20 wad of money in order to just get one 50 dollar bill. He
21 had the money. I believe he's going to testify that he
22 was going to purchase something but he didn't get a chance
23 to make it to the bank because this is a Friday evening so
24 he puts the money in the safe.

25 He goes back to the living room, he gives Ms.

1 Weber the \$50. She leaves. Now, he doesn't think she's
2 going to come back. She says I need to go to the store, I
3 need to do something, whatever. So, she leaves. She's
4 gone for approximately 20 minutes. She comes back and
5 when she comes back they sit there, they talk some more,
6 she's watching TV, she touches the remote, she's drinking
7 coffee, then they finally decide hey -- she decides do you
8 want to get high to Mr. Stites. She tells him that she
9 knows somebody that she can call that will come to the
10 house in order to bring drugs to the house.

11 Now, Mr. Stites is going to tell you that he is
12 very diligent about locking his doors. He locks his door
13 when she comes back into the house, but when this person
14 who she's going to purchase the drugs from comes to the
15 house, she goes to the door, unlocks the door, lets the
16 person in, the person casually comes in, walks into the
17 kitchen, and she follows the person into the kitchen, and
18 that's where the drug transaction takes place. The person
19 leaves, she sits down with Mr. Stites, they talk some
20 more, and then at that point they start to do drugs and
21 then they go into the bedroom.

22 Now, Mr. Stites is going to tell you that when
23 the person left that before they went into the bedroom he
24 locked his door. I think it's two-fold. It's like the
25 interior door and then there's an exterior door that's

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1 like a little small voyeur (sic) there. Voyeur, but he
2 locks his door. He comes back into -- he comes back into
3 the house. They go into the bedroom. Again, before they
4 get into the bedroom and do drugs he does smoke some of
5 the drugs, but primarily Ms. Weber is smoking the drugs
6 and she's blowing the smoke into this face and into his
7 mouth in order for him to ingest it and inhale it.

8 Once they're in the bedroom they get undressed,
9 he begins to perform oral sex on her. But, in the middle
10 of it she gets up, she says I need a drink of water, now
11 remember he's diligent about locking his doors. So, she
12 goes into the kitchen or wherever she goes to get this
13 drink of water, she comes back into the bedroom. And, at
14 that point she straddles Mr. Stites and she's sitting on
15 top of him. He begins to perform oral sex on her again.
16 At that point someone walks around the corner with a
17 weapon. He immediately orders Mr. Stites to turn over, to
18 lay face down on the mattress, and then she becomes
19 actively engaged in this robbery.

20 The person tells her hey tie him up, she ties
21 him up, and then they start -- they both start to rummage
22 through his room. Eventually the person finds the safe.
23 They don't -- they don't have the combination. The
24 combination is actually in the safe but the person -- they
25 can't figure it out so they carry the safe and run -- he

1 carries the safe and leaves out of the room. And, at that
2 point Ms. Weber grabs her clothes and she leaves out
3 immediately thereafter. She doesn't call 911, she doesn't
4 assist Mr. Stites, in any way, shape, or form. He's
5 unable to call 911 from his home because his cell phone's
6 missing. So, he has to take his bike, his motorbike, ride
7 down to the 7-11 and call 911. And, you'll hear the 911
8 call that he makes.

9 Now, the prosecutor talks about whether or not
10 you have to look at whether or not Ms. Weber is -- is a
11 disputed accomplice. I believe that you're going to hear
12 testimony that there's no doubt that she's involved in
13 this armed robbery and you have to juxtapose that in her
14 credibility and how she describes this entire matter. In
15 fact you need to -- you need to juxtapose that to how many
16 different times she talks about this matter and how many
17 times she's told a story about this matter and how many
18 times she tries to mitigate her own activity in this
19 matter. And, then when you look at it from that
20 prospective and you judge -- judge her credibility, not
21 only the fact -- outside the fact that she's
22 prostitutioning (sic) -- she prostituting, she's an
23 admitted crack addict and that she was extremely high
24 during the course of that period -- that period of time
25 even up to that date and even after that date, and that

1 she had a relapse and a portion of her time talking to the
2 police about this matter. When you weigh that against
3 all the evidence and you weigh that against her testimony,
4 I believe that there is no way that you can believe her
5 and her credibility in terms of describing that Mr. Hughes
6 was the person that was in that room.

7 You're going to hear a number of stories in
8 which she told. One of them is going to be very
9 compelling because of what she said, what she did when she
10 left that house the first time. And, when you hear that
11 portion of it and you hear her engagement and involvement
12 at that point, there's no doubt in my mind that you will
13 not believe her and that it will -- it will cast any doubt
14 that you have in her reference as to whether Mr. Hughes
15 was the person who came to that house, sold her the drugs,
16 and eventually came back in that house with her, based on
17 how Mr. Stites described him locking his doors was the
18 person that came back in the house and assisted her in
19 committing this armed robbery, because quite frankly,
20 ladies and gentlemen, this armed robbery is all her doing
21 and is all her plan.

22 So, ladies and gentlemen, I truly believe that
23 at the end of the day when you look at all testimony and
24 you look at there is no evidence that you will see whether
25 it be physical or direct that will connect Mr. Hughes to

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1 17 West Rutgers on August sixth, 2016. That at the end of
2 the day you will find him not guilty. Thank you.

3 THE COURT: Thank you, Mr. Taylor.

4 Ms. Collins, your first witness?

5 MS. COLLINS: Thank you, Your Honor. The People
6 call Ronald Stites to the stand.

7 THE CLERK: Sir, please stand and raise your
8 right hand.

9 Do you swear or affirm the testimony you're
10 about to give is the truth and nothing but the truth?

11 MR. STITES: I do.

12 MS. COLLINS: Good morning.

13 THE WITNESS: Good morning.

14 MS. COLLINS: Could I please have you state your
15 full name and spell your last name for the record?

16 THE WITNESS: Ronald Edward Stites. S-T-I-T-E-S.

17 RONALD STITES

18 called at 9:25 a.m., by the People and sworn by the clerk
19 testified:

20 DIRECT EXAMINATION

21 BY MS. COLLINS:

22 Q And, Mr. Stites, how old are you, if you don't mind me
23 asking?

24 A Seventy-one. I'll be 72 in another month and a half.

25 Q Okay. And, I'd like to direct your attention back to the

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1 date of August sixth of 2016. Where were you living at
2 that time?

3 A 17 West Rutgers.

4 Q Okay. Is that in the City of Pontiac?

5 A Yes.

6 Q Is there here in Oakland County?

7 A Yes.

8 Q Okay. Now, your home, is it a single family house, is it
9 an apartment, what it is?

10 A It's a single house.

11 Q How many bedrooms?

12 A Two.

13 Q And, is there a basement?

14 A No.

15 Q Is there an upstairs?

16 A No.

17 Q Okay. So, it's just -- do you know what a ranch is? A
18 ranch home?

19 A Yes.

20 Q Single level?

21 A One level house.

22 Q Okay. You said there's two bedrooms?

23 A Yes.

24 Q What other rooms do you have in your home?

25 A Kitchen, living room, bathroom, and two bedrooms.

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1 Q Okay. Do you know how large your home is, how many square
2 feet?

3 A Probably about 35 to 40 feet square.

4 Q Okay. That's your whole home?

5 A Yeah.

6 Q Okay. Directing your attention back to August sixth,
7 2016, did anybody else live in the home with you?

8 A No.

9 Q Okay. And, do you recall the events of August sixth,
10 2016?

11 A Yes.

12 Q Now, you and I have talked before today, correct?

13 A Yes.

14 Q Do you -- have you suffered some medical issues over the
15 years?

16 A Yes.

17 Q Anything that affects your ability to stand or walk?

18 A Yes.

19 Q Okay. So, tell me back on August sixth, 2016, what your -
20 - what your physical health was like?

21 A It was pretty bad. It's still pretty bad. I -- about six
22 years ago they thought they was going to have to cut my
23 legs off and I'm a diabetic and high cholesterol and I
24 have a -- I have a hard time walking. I used to walk from
25 Baldwin to my house to Baldwin which is about 100 feet.

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1 Q So, let me ask you, your home on West Rutgers, you said
2 it's 17 West Rutgers?

3 A Yes.

4 Q And, you've also mentioned Baldwin.

5 A Yes.

6 Q Does Rutgers intersect with Baldwin?

7 A Yes.

8 Q Your home itself, your house, where is that located in
9 relation to Baldwin? Are there any houses between your
10 house and Baldwin?

11 A No, there's a business building between Baldwin and my
12 house.

13 Q Okay. Is your home the first home on Rutgers on that side
14 of Baldwin?

15 A On the left, yes.

16 Q Okay. And, you said that you used to walk from your home
17 to Baldwin? Was that a track that you took from your
18 house to Baldwin and back to your house?

19 A Yes, it's about 100, 150 to 200 feet.

20 Q Okay. And, is that something that you did on August
21 sixth, 2016?

22 A Yes.

23 Q Do you recall whether this was in the middle of the day,
24 whether this was in the evening, what time of day it was?

25 A This was -- it was dark out. It was in the evening.

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1 Q Okay. And, when you went out walking, do you recall the
2 path that you took, where you walked to?

3 A Yes, I walked the sidewalk from my house to Baldwin
4 Avenue.

5 Q And, did you encounter, meet up with anybody?

6 A One time I did. I don't know what her name is. There's a
7 girl, I guess she's a prostitute and I didn't know.

8 Q Okay.

9 A And, she was coming down the sidewalk as I -- I walk back
10 and forth from my house to Baldwin until I get tired and
11 then I go in the house and rest.

12 Q Okay.

13 A She said something about being over to my house before.

14 Q Okay.

15 A Which I didn't remember.

16 Q Okay. So, do I understand you correctly that this woman
17 approached you?

18 A Yes.

19 Q And, she talked to you about having been to your house
20 before?

21 A Yes.

22 Q Did you remember her?

23 A No.

24 Q Did you remember her coming to your home?

25 A No.

1 Q Okay. But, did you have a conversation with her on this
2 particular night?

3 A Yes.

4 Q Okay. And, during that conversation did you invite her
5 back to your home?

6 A Yes.

7 Q Now, did you and she talk about her being a prostitute on
8 that night?

9 A Well, no but she talked about needing money for food and
10 something to drink.

11 Q Now, was that -- her talking about food or money, if you
12 remember, was that when you were out on the sidewalk
13 between your house and Baldwin?

14 A We got in my house.

15 Q That was after you got into your house. So, do you
16 remember why you invited her back to your house?

17 A Well, I -- I had to go in and rest and she didn't have --
18 seemed like she didn't have no place to go so I told her
19 she could come on in if she wanted to and watch TV.

20 Q Once you got back to your house do you recall what you did
21 when you first got back to the house?

22 A Well, we sat around and talked for ten minutes or so.

23 Q You mentioned a TV. Did you watch TV at that point, if
24 you remember?

25 A She was watching TV.

1 Q At some point did you talk about the fact that she was a
2 prostitute?

3 A No, not about prostitute.

4 Q Did you talk about you and she engaging in sex?

5 A Yes.

6 Q When did that happen? When she went back at your house or
7 out on the sidewalk?

8 A That was in the house.

9 Q You also I think said during your testimony today that she
10 talked about needing money?

11 A Yes.

12 Q Okay. When you got back to your house and you watched
13 some TV and you talked, did you give her any money?

14 A Well, I don't know if she's the one that got on the -- the
15 thought of getting together or if it was me, I don't
16 remember.

17 Q Okay. When you say getting together, are you talking
18 about the sex?

19 A Yes.

20 Q Okay, okay. So, you don't know -- do I understand you
21 correctly, you don't remember who brought it up?

22 A I don't remember who brought it up.

23 Q Okay, but it was brought up?

24 A Yes.

25 Q And, when you -- when you two talked about that, tell me

1 what you decided or agreed upon?

2 A She said something -- something about she'd stay all night
3 for \$50 so I said okay.

4 Q Okay. And, what, if anything, did you do about getting
5 the \$50?

6 A Well, I went to my safe and I got it out and I put it on
7 the -- in front of TV in the bedroom.

8 Q Okay. And, let me back up a little bit. When you and
9 this woman got back to your house and you said that you
10 were watching TV, what room were you in watching the TV?

11 A The living room.

12 Q The living room, okay. Is there a TV in your living room
13 as well as in your bedroom?

14 A Yes.

15 Q So, the TV that the two of you were watching was in your
16 living room?

17 A Yes.

18 Q And, when you say that you went to your safe and got the
19 money, where was your safe located?

20 A In the -- in the bedroom. I have two safes in my bedroom.

21 Q Okay. And, this particular one where you got the money
22 was in your bedroom?

23 A Yes.

24 Q Do you know where the woman was when you went to the safe
25 to get the money?

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1 A She was -- she went -- followed me in there.

2 Q Okay. When you went to the safe to get the money, how
3 much money do you remember getting out for her?

4 A A 50 dollar bill.

5 Q Was there more than \$50 in your safe?

6 A Yes, there was about \$4,200 to \$4,300.

7 Q And, why do you remember so much money being in your safe?

8 A Well, my brother was needing some money so I -- he was
9 having problems, so I went and withdrew -- it was either
10 \$3,000 or \$4,000 out of the credit union that day and then
11 he ended up not needing it.

12 Q Okay.

13 A So, I -- I just got it that day and then I was going to
14 take it back to the credit union and -- and I never had
15 time enough to.

16 Q Okay. So, in addition to going up to the credit union
17 earlier that day and making that larger withdrawal, did
18 you normally keep at least some cash in that safe?

19 A Yeah, I usually try to keep about a thousand or so 'cause
20 I go to a lot of yard sales and --

21 Q Okay, okay. So, that's how you recall that there was that
22 amount of money, roughly, the \$4,200 or the \$4,300,
23 somewhere around there?

24 A Yes.

25 Q Do you remember what else -- what other types of items you

1 kept in that safe?

2 A I had -- I had a whole box of blank checks and I had a 70
3 dollar -- silver dollar, gold plated silver dollar money
4 clip. I had extra keys to stuff around the house. And, I
5 had -- I can't -- off hand I can't quite remember. I had
6 a mini-stroke about three years ago and my memory's not
7 too good all the time.

8 Q Okay. At some point do you remember talking to a police
9 officer, this is later on in that night, early morning,
10 but did you talk to him? Did you have any type of credit
11 cards in that safe?

12 A Yeah, I had Home Depot, I believe.

13 Q Was that something that --

14 A I had my -- I had birth certificate, social security
15 number.

16 Q Okay, okay. And, did all of those items belong to you?

17 A Yes.

18 Q Okay. So, let's get back to -- you said that you took the
19 \$50 out of that safe?

20 A Yes.

21 Q And, was all the money together in the safe?

22 A Yes.

23 Q Okay. So, when you -- did you just take out a 50 dollar
24 bill, if you remember, did you just take out a 50 dollar
25 bill, did you take out all the money and look for \$50,

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1 what did you do?

2 A I took out a 50 dollar bill. I believe that was the
3 smallest I had in there. It was all 50s and 100s.

4 Q And, after you got the money out of the safe, did you
5 close and lock the safe back up?

6 A Yes.

7 Q And, when we're talking about a safe, I mean what -- is
8 like a full standing safe or is it a personal safe?

9 A No, I have -- I've got two safes that -- about this big
10 and about this wide and I had one on top of the other.

11 MR. TAYLOR: If we can just indicate for the
12 record --

13 THE COURT: Ms. Collins, can you make a
14 reference?

15 MS. COLLINS: Certainly.

16 BY MS. COLLINS:

17 Q Can you show me about -- well let me -- let me ask you
18 this. Was there an owner's manual for those -- for the
19 safe --

20 A Yes.

21 Q -- in your home?

22 A Yes.

23 MS. COLLINS: Okay. And, if I may approach the
24 witness?

25 THE COURT: Okay, but let's have him clarify

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1 'cause he made some motions, so clarify for the record.

2 MS. COLLINS: Certainly.

3 BY MS. COLLINS:

4 Q How -- how big was the safe that you're talking about?

5 A It was probably about that high and about that wide
6 square.

7 Q So, is it like --

8 MR. TAYLOR: I'd say three by two.

9 BY MS. COLLINS:

10 Q -- 3 feet, 3 by 2, okay? Is that --

11 A Somewhere around there.

12 Q Okay. Now --

13 MS. COLLINS: And, if I may approach the witness,
14 Your Honor?

15 THE COURT: Yes.

16 BY MS. COLLINS:

17 Q I'm showing you right now what's been marked as People's
18 proposed exhibit number eight, but I'd ask you to take a
19 look at that, what's contained in the plastic outer
20 covering and tell me if you recognize what is shown in
21 there?

22 A Yeah, I have --

23 Q Well, first before that we do that, what is that?

24 A It's a safe.

25 Q Is it a picture of different safes?

1 A Yes.

2 Q Is that the actual owner's manual?

3 A The owner's manual.

4 Q Okay, are there four different pictures of safes on the
5 front of that owner's manual?

6 A Yeah, there's three combinations -- no four combinations
7 and the key but I'm trying to -- it's -- it was a dial --
8 it's wasn't no push button.

9 Q Okay.

10 A So, one of these dial ones.

11 Q Okay. So, out of these four pictures your safe is one of
12 the three that has dials?

13 A Yes.

14 Q Okay. But, that accurately reflects what your safe would
15 have looked like?

16 A Yes.

17 Q Okay, okay. And, I'm going to get back to this in a
18 minute. Okay. So, after you got the \$50 out what did you
19 do with the \$50?

20 A I put it in front of the TV stand.

21 Q And, is that the TV that was in your bedroom or the living
22 room?

23 A The bedroom.

24 Q And, did you talk some more with this woman?

25 A Yes.

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1 Q Okay. And, at some point did you either give her that \$50
2 or did you see her take that \$50; anything?

3 A No, I set it right in front of the TV. I told her she
4 could have it when she leaves in the morning.

5 Q Okay. And, then what happened?

6 A Well, we got into a -- talking about sex and stuff and I -
7 - I'm not able to perform down here --

8 Q Okay.

9 A -- so I -- I gave her headeral -- headeral (sic) sex.

10 Q Okay. And, when -- when you say that are you referring to
11 oral sex?

12 A Yes.

13 Q So, you performed oral sex on the female?

14 A Yes.

15 Q Now, where were you when you performed the oral sex on
16 this female?

17 A I was laying on the bed.

18 Q And, you mentioned that you gave her the \$50 or put the
19 \$50 in front of the television telling her she could have
20 it when she left in the morning?

21 A Yes.

22 Q Was there any time on this particular occasion where she
23 left your home and then came back?

24 A Yes, she said she was hungry and thirsty so she -- I told
25 her she could have something out in the kitchen but she

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1 said she wanted to go to the store.

2 Q Okay.

3 A So, she picked up the \$20 or \$50 and headed to the store.

4 He was gone for maybe 15 to 20 minutes and then she came

5 back. I didn't think she was going to come back.

6 Q Okay. Now, let me ask you this. If you remember, did she

7 take the \$50 and leave to go to the store before you guys

8 had oral sex or after?

9 A It was right after.

10 Q Okay. And, so you said that she left with the \$50 and

11 then she came back maybe 15, 20 minutes later; do I have

12 that right?

13 A Yes.

14 Q And, when she came back was she alone?

15 A Yes.

16 Q And, then what happened when she came back?

17 A She said something about calling somebody to get some

18 drugs.

19 Q Okay. Let me go back to talking about your house a little

20 bit. How many doors are there from the outside into your

21 home?

22 A I got two doors. I have the front door and the backdoor.

23 Q Okay.

24 A The backdoor I bought a refrigerator -- the old

25 refrigerator fit under the cupboards and this other one --

1 the one I bought was a little bigger frigerator (sic) and
2 wouldn't fit under there so I got to block the backdoor.

3 Q Okay. So, do I understand correctly that even though you
4 have a backdoor, you can't go in and out of it because
5 it's being blocked by a refrigerator?

6 A Yes.

7 Q Okay. So, let's talk about your front door to your home.
8 How many doors are there on your front door?

9 A I have a storm door and a regular door.

10 Q Okay. Do both the storm door and the regular door have at
11 least one lock?

12 A Yes.

13 Q How many locks on your storm door?

14 A One.

15 Q And, how many locks on the regular door?

16 A Two.

17 Q Okay. So, let's talk about the lock on your storm door.
18 What kind of lock is that?

19 A It's just a regular lock. It's -- it's the --

20 Q Do you have to use a key to lock it when you're inside?

21 A No, not inside.

22 Q Okay. When you're inside how do you lock it?

23 A Just push a button down.

24 Q Okay. And, is it like a -- when you talk about a storm
25 door, can you have a screen in it during the summer and

1 spring months?

2 A Yes.

3 Q And, you could also put a window in it during the colder
4 months?

5 A Yes.

6 Q And, the handle itself is it just like a little metal
7 handle or is it something different?

8 A Yeah, it's a little white metal --

9 Q Okay, and you push a little button when you're inside the
10 house?

11 A Yes.

12 Q How about your regular door, you said that that has two
13 locks?

14 A Yeah, I have the doorknob lock and I have a deadbolt lock.

15 Q Okay. The doorknob lock, is it a round doorknob?

16 A Correct.

17 Q Okay. So, the doorknob lock if you're inside your house
18 to lock that door, do you just push a button or is there
19 something different?

20 A Yeah, you turn the little button the doorknob and you have
21 to turn the deadbolt lock.

22 Q Now, do you have a normal habit or routine when it comes
23 to locking your doors?

24 A Yeah, I do it and don't even know it. As soon as I -- if
25 I unlock the doors from the outside and go in I'm always -

1 - I shut the door and then I got to open it back up and I
2 already got it locked. I just do it without even
3 realizing it. I don't even -- it's just a natural
4 reflection (sic).

5 Q So, when you first came home to your home that night and
6 the female was with you before you started watching TV and
7 just talking, do you remember if you locked the doors?

8 A Yes, that's automatic. As soon as I go in the house or
9 out I make sure all the doors are locked.

10 Q When she left to go to the store, did you unlock the door
11 and let her out or did she go out herself?

12 A I unlocked it.

13 Q You unlocked it. Okay. So, when she left to go to the
14 store, do you remember if you locked the door after she
15 left your house?

16 A I -- I - if anybody comes over I'm -- my first thoughts is
17 getting -- is lock the door 'cause there's a lot of
18 problems in the neighborhood.

19 Q When she -- I know you said that you didn't think she was
20 going to come back but she did.

21 A Yes.

22 Q When she came back, how did she get back into your home?

23 A I let her back in.

24 Q Okay. And, once she came back into your home, do you
25 remember if you locked the door or --

1 A Yes.

2 Q Because it's automatic, right?

3 A Yes.

4 Q Okay. Once -- so once she came back from the store you
5 said that she started talking about getting drugs?

6 A Yes.

7 Q So, tell me about that conversation, what you remember
8 about it?

9 A She called somebody to bring her some stuff and I said
10 well okay.

11 Q Okay. And, were you there -- did she place a call?

12 A Yes.

13 Q Or, did you see her or hear her place a call?

14 A Yes, she placed a call.

15 Q And, so during the time -- did -- at some point did
16 someone come to your home to deliver drugs?

17 A Yes.

18 Q So, between the time that she placed the call and the time
19 that the person came to deliver the drugs, what did you
20 and this woman do?

21 A We just watched TV.

22 Q Did she have anything to eat or drink at your home that
23 you can remember?

24 A No, she didn't bring anything back.

25 Q Okay. And, I know that you mentioned that you offered her

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1 the opportunity, did she ever have anything to drink at
2 your house?

3 A No. Oh yes she had coffee.

4 Q Coffee, okay. Did she use one of your cups or have her
5 own?

6 A She used my cup. I have a cup that goes right with a
7 little one -- one cup coffee maker and she was using that.

8 Q Okay. So, between the time that she called to order the
9 drugs and the time that the person came to bring the
10 drugs, what did the two of you do?

11 A Watched TV. She said something about what's on TV. I
12 just -- I gave her the channel turner and let her pick out
13 what she wanted to watch.

14 Q And, when you say that you guys were watching TV, was that
15 the TV in your living room or the bedroom?

16 A The living room.

17 Q Okay. At some point you said that someone came to bring
18 drugs?

19 A Yes.

20 Q How did -- did that person come into your home?

21 A Yes.

22 Q How did that person come into your home?

23 A She -- she got up and let him in.

24 Q Okay. Now, the -- the front door -- are you talking about
25 the front door then that she let him in through?

1 A Yes.

2 Q Is that off of your living room, like --

3 A Yes.

4 Q Okay. So, while you're in the living room you see her go
5 to the door and open the door for this person?

6 A Yes.

7 Q Okay. When this person comes in, tell me what you see
8 about this person?

9 A I couldn't see him. He -- he never hardly faced me. He
10 always kept his head turned back and he walked into the
11 kitchen and she followed him in there.

12 Q Okay.

13 A And, he -- rarely ever faced me and not long enough that I
14 could have -- have a good look at him.

15 Q Okay. Now, you keep saying he. So, let me ask you a
16 couple more questions. Could you tell whether it was a
17 man or a woman?

18 A Yeah, it was a man.

19 Q Okay. Could you tell what color skin the person had, the
20 man had?

21 A Yes.

22 Q What color skin did the man have?

23 A Black.

24 Q Could you see what type of clothing he was wearing?

25 A I think he was wearing just a light jacket and a -- blue

1 jeans. I'm pretty sure he was wearing a cap.

2 Q A cap?

3 A Yes.

4 Q When you say a cap, are you referring to some sort of hat?

5 A He was wearing like a baseball cap.

6 Q And, you said this person went into -- so did this person
7 say anything to you?

8 A No, he never talked to me.

9 Q Okay. And, you said that this person went into the
10 kitchen, where did the woman go?

11 A She followed him in there. I thought maybe they was doing
12 their dealing in there.

13 Q Did you follow them into the kitchen?

14 A No, I sat there and watched TV.

15 Q Okay. And, at some point did they come out of the
16 kitchen?

17 A Yes.

18 Q Did you see him give anything to her or her give him any
19 money?

20 A No.

21 Q Now, do you know -- had you given her any more money, or
22 do you know where she got any money to pay for the drugs?

23 A I'm not sure if I gave her any more or not.

24 Q Okay, okay. How long was this man in your home at that
25 time?

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1 A Maybe five or six minutes maybe.

2 Q Okay. And, that includes the time that he came into the
3 door, was in the living room, and then when he was in the
4 kitchen?

5 A Yes.

6 Q When they're in the kitchen, can you see them when you're
7 sitting in the living room?

8 A No, there's a small partition between the doorway and the
9 wall where I can't see.

10 Q Okay, okay. Did you see the man leave your home?

11 A Yes.

12 Q And, was that through the front door?

13 A Yes.

14 Q When the person left, when the man left, did the female
15 stay in your home?

16 A Yes.

17 Q And, after the man left did you see the female lock the
18 door or did you lock the door?

19 A No, I locked the door.

20 Q So, at that point did you get up --

21 A Yes.

22 Q -- and lock the door?

23 A Yes.

24 Q Okay. So, tell me now that the man has left what -- what
25 happens, what do you and the female do?

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1 A Well we -- we go back into the bedroom and resume our
2 sexual stuff.

3 Q Okay.

4 A And --

5 Q What about the drugs?

6 A Well she wanted me to -- I guess it was crack cocaine or
7 something. She wanted me to take a pop and I told her no,
8 just take a puff and blow it in my mouth.

9 Q Okay. And, so did she do that?

10 A Yes.

11 Q And, just so I'm clear, so was she smoking it?

12 A Yes.

13 Q And, after she smoked it she would blow the smoke into
14 your mouth?

15 A Yes.

16 Q Now, when you said that you went back into the bedroom and
17 continued your sexual stuff, did you do drugs before you
18 continued the sexual stuff or --

19 A Yes.

20 Q Before, okay. Where did the two of you do those drugs?

21 A It was in the bedroom.

22 Q Okay. And, so after the two of you do the drugs, did you
23 finish whatever she had as far as you know?

24 A No she mentioned something about getting a drink of water.

25 Q Well, let me ask you about the drugs. As far as you know

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1 did the two of you finish what she had, her supply of the
2 drugs that she had gotten from this man?

3 A I don't know how much she got. I only took about -- she
4 only -- she only -- she took a puff and she blew it a
5 couple times in my mouth.

6 Q Okay, okay. And, after that you said that she mentioned
7 something about making -- something, what?

8 A She said she needed to go get a drink.

9 Q Okay. And, when she said that she needed to go get a
10 drink, was that before or after you had continued with
11 your sex stuff?

12 A That was -- it was in -- I think it was before. I'm
13 thinking.

14 Q Okay. Did she leave your bedroom?

15 A Yes.

16 Q When she left your bedroom did you follow her or did you
17 stay in the bedroom?

18 A No, 'cause I had my clothes off and she had her clothes
19 off.

20 Q Okay.

21 A I -- I was -- I was wearing my briefs.

22 Q Okay. Where were you in your bedroom?

23 A I was laying on the bed.

24 Q Okay. Did -- so when she left your bedroom, how long was
25 she gone from your bedroom?

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1 A Just less than a minute.

2 Q When she came back in did she have any drink in her hand
3 or anything like that?

4 A No.

5 Q So, once she came back in what happened?

6 A We resumed our stuff.

7 Q And, I don't mean to get too specific but I know you said
8 that you were performing oral sex on her.

9 A Yes. That's what we was doing.

10 Q Okay.

11 A And -- and after about a minute or so she jumped away from
12 me and then there's a man there with a handgun.

13 Q So, tell me what you saw about the man with the handgun?

14 A It was a gun away.

15 Q Okay. And, what did it look like?

16 A It was -- it looked like a -- the one that the police
17 carry around. So, it must have been a 40 caliber.

18 Q What color was it?

19 A Black.

20 Q When you're talking about the kind the police carry
21 around, do you know the difference between a rifle and a
22 handgun?

23 A Yes. This was an automatic.

24 Q An automatic, was it a handgun?

25 A Handgun.

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1 Q And, do you recall seeing anything about the man or
2 recognizing the man from anywhere?

3 A No.

4 Q Okay. Did you see what the man was wearing?

5 A He was swearing his blue jeans and I think a light -- a
6 light jacket of some sort and the cap.

7 Q Was he wearing the same clothing that the person who had
8 come earlier to your house to deliver the drugs was
9 wearing?

10 A Yes.

11 Q Ultimately did you tell the police that the same man that
12 delivered the drugs earlier was the man who was holding
13 the gun?

14 A Yes.

15 Q Do you still believe that as you sit here today?

16 A Yes.

17 Q Okay. So, could you see that it was a man holding a gun?

18 A Yes.

19 Q Could you see that it was a black man?

20 A Yes.

21 Q Did the man say anything?

22 A He told me to turn over and put my face in the bed, you
23 know.

24 Q And, did you follow his direction?

25 A Huh?

1 Q Or, I'm sorry, or he would what?

2 A Or, he'd shoot me.

3 Q Did you follow his order?

4 A Yes.

5 Q Okay. So, at that point once you turn over, are you face
6 down on the mattress?

7 A Yes.

8 Q Are you looking around, are you seeing things?

9 A No.

10 Q What are you doing with your face? Where's your face?

11 A He told me to keep it there and then he was holding my
12 face down too.

13 Q Okay. Now, you said that just before you see this guy
14 with the gun, the woman jumps off of you. So, do you see
15 where she is before you turn over and follow his order?

16 A Yeah, she jumped off and went to the left -- went to her
17 left and --

18 Q And, to her left where would that be? Would that be
19 toward --

20 A Well, the door - the doorway runs along the door and I've
21 got the bed almost in front of the doorway. So, she jumps
22 off there -- it would have been her right because she was
23 facing the other way. It was -- it would have been to my
24 left 'cause I was laying on my back looking up.

25 Q So, would she have been -- would she have jumped closer to

1 where the door is or on the other side of the bed?

2 A She -- she jumped to the -- the door -- the door -- the
3 doorway's like this. The only way -- you can come in this
4 way and she -- she moved over to this side 'cause she
5 couldn't move -- the wall was here.

6 Q Okay, okay. And, when you're describing that action are
7 you describing the man coming through the doorway toward
8 where you're sitting right now?

9 A Yes, but he was already there.

10 Q Okay.

11 A And, she moved. He was -- he told me roll over or he'd
12 shoot me.

13 Q Okay. Do you recall whether you heard her say anything?

14 A No, she -- she mentioned something about money -- money
15 was in the safe and she watched him put the keys up in the
16 closet.

17 Q She watched who put the keys up in a closet?

18 A She was supposed to have been -- I was waiting for her to
19 go back out into the living room, but evidentially she
20 stopped by the door and then she was making some type of
21 racket. She was making noise putting the keys up. She
22 was looking between the wall and the door, that little
23 opening.

24 Q Are you referencing that that's what she was doing right
25 then or that's what she was doing earlier in the night?

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1 A That's what she was doing right then.

2 Q Okay. So, let me ask you this. You mentioned that there
3 was a dial on your safe.

4 A Yes.

5 Q Is there also an ability to use a key?

6 A Yes.

7 Q Did you have to use both in order to get into your safe?

8 A Yes.

9 Q Okay. Where had you put the keys after you were done
10 getting the money earlier in the night?

11 A I put them up in a box up in the closet.

12 Q Okay. So, now when the man with the gun has told you to
13 roll over and you said you heard the female say something,
14 did she reference the keys in the closet?

15 A Yes.

16 Q Okay, okay. Am I understanding you correctly that at that
17 point now that your face is in the -- is in the closet you
18 don't see anything?

19 A No, they wouldn't let me.

20 Q Okay. So, I want to talk about what you could hear while
21 you were on -- first let's talk about what you can hear
22 and then I want to talk about what you can feel as far as
23 your body. So, what can you hear while your face is down
24 in the mattress? You hear her say something about the
25 keys in the closet?

1 A Yes.

2 Q Anything else that you hear?

3 A They was trying to tell me to open the safe and I told
4 them I -- I wouldn't do it.

5 Q Okay. When you say they, did both of them say open the
6 safe or did you hear one person's voice?

7 A I think it was his that told me to open the safe.

8 Q Okay.

9 A And, they wanted the combination and I wouldn't give it to
10 them.

11 Q Can you hear anything else? Can you remember anything
12 else as you have your face down in the mattress?

13 A She said something about -- she was telling him that I put
14 -- I put the keys up into the closet so they got into the
15 closet and was throwing stuff out all over me and --

16 Q So, can you feel things like kind of --

17 A And, then she told him she found the keys.

18 Q Okay. Once you hear her say something about finding the
19 keys, anything else that you hear?

20 A They was -- they was -- they had the combination, they had
21 that pamphlet and they was trying to open the safe for --

22 Q And, how do you know that? What did you hear that led you
23 to believe that?

24 A She was trying to open it and while he -- he held me down.
25 She was trying to open it and she couldn't get it open.

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1 Q Now, you said that -- okay, so I know that you said that
2 things were coming out of your closet and some of them had
3 hit you or were falling on you, do I have that right?

4 A Yes.

5 Q So, as your head is face down there as your face is in the
6 mattress, you can feel things kind of hitting you?

7 A Yes.

8 Q You weren't injured, correct?

9 A Pardon?

10 Q You weren't injured, right?

11 A No.

12 Q Okay, but you could feel things hitting your body?

13 A Yes.

14 Q You said something about someone holding you down, what
15 did you feel?

16 A They just had the back of my head down.

17 Q Okay. And, did anything ever happen with any rope? With
18 any rope?

19 A Yeah, they tied me up.

20 Q Okay. So, tell me about that.

21 A Well, they -- they tied me up and tied my hands behind my
22 back and they spent probably somewhere in the vicinity of
23 ten minutes to try to get into that safe and they couldn't
24 do it.

25 Q Okay.

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1 A So, they ended up taking the safe out while one of them
2 held my head with -- and the handgun to me.

3 Q Okay.

4 A (Indiscernible).

5 Q Okay. Ultimately did you hear both of these people leave
6 your home?

7 A Yes.

8 Q What -- what led you to believe -- what made you believe
9 that they had left your home? What did you hear?

10 A Well, they took the safe out.

11 Q Okay.

12 A One person had me pinned down with the handgun while the
13 other one left with the safe. Whoever -- whoever left
14 with the safe had tripped on -- tripped on some boxes of
15 stuff.

16 Q How do you know this?

17 A I -- I -- they made -- it made a racket.

18 Q Okay. And -- and I don't mean to be picky, I just want to
19 make sure I understand correctly. When your face is down
20 in the mattress, do you see the gun after that?

21 A No.

22 Q Okay. So, you can feel someone holding your head down?

23 A Yes.

24 Q And, I know you just testified that that person must have
25 -- or had the gun to you, but did you see that person have

1 the gun to you at that point?

2 A No.

3 Q Okay, okay. So, someone's holding your face down or your
4 head down, and you can hear this racket, however was
5 leaving the room tripped over something?

6 A Yes.

7 Q Okay. And, did you hear the door at all open or shut?

8 A Yes.

9 Q Okay. How many times if you can remember?

10 A I think it was twice.

11 Q Okay.

12 A They went out and they took the safe out and then they
13 came back in and got -- and got the other person and then
14 they left.

15 Q Now, when you say they got the other person, did they say
16 anything like --

17 A No.

18 Q Okay. So, this is -- this is what your -- your testimony
19 is based on what you were hearing at that point?

20 A Yes.

21 Q But, you didn't hear anybody say anything like come on
22 let's go, let's get out of here, anything like that?

23 A No.

24 Q Okay, okay. How -- okay. You mentioned that you had been
25 tied up, your hands were tied behind you back?

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1 A Yes.

2 Q Once the two people left your home, did you bring your
3 face up out of the mattress and how did you get untied?

4 A Well, they didn't have me tied very good.

5 Q Okay, okay. So, was it relatively easy to untie yourself
6 or get loose?

7 A Yes.

8 Q Okay. And, once you get loose is your safe still there or
9 is it gone?

10 A No, it's gone.

11 Q And, is that the safe, I know you mentioned you had two,
12 was the safe that was gone the one that had that \$4,000 in
13 it and everything?

14 A It was the one that was on top that had the money in it.

15 Q Okay, okay. So, tell me what you do at that point?

16 A I get dressed real quick and I get my keys to my moped and
17 I go down to the 7-11 'cause they took my -- they took my
18 telephone.

19 Q Okay. So, you can't find your phone, do I understand that
20 correctly? Your phone's not there.

21 A I couldn't find it.

22 Q Okay.

23 A I went to the 7-11 and called the police.

24 Q Okay. So, you mentioned that you have a moped. Tell me
25 is this moped like a little motorcycle type --

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1 A Yeah, it's like a motor bike.

2 Q Motor bike, okay. And, is that your vehicle of
3 transportation?

4 A Yes.

5 Q Okay. The 7-11, where is the 7-11 in relation to your
6 home?

7 A Oh, probably eighth of a mile.

8 Q Okay. Is it on Baldwin or someplace different?

9 A Yes, right on Baldwin.

10 Q Okay. So, you leave your house to go to Baldwin, do you
11 turn right or left?

12 A Left.

13 Q Okay. And, then you said maybe an eighth of a mile that's
14 where the 7-11 is?

15 A Yeah.

16 Q What do you do once you get to the 7-11?

17 A Columbia and Baldwin.

18 Q I'm sorry, Columbia and Baldwin?

19 A Yeah. I asked the guy that was at the -- at the --
20 working at the 7-11 if I could use his phone, I needed to
21 call the police 'cause I was robbed.

22 Q Okay. And, did you use the phone there?

23 A Yes, he let me use the phone.

24 Q And, when you call the police, do you call 911?

25 A Yes.

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1 Q And, do you tell the police, to the best of your ability,
2 what had just happened at your house?

3 A Yes.

4 Q Okay. After you call 911, do the police come to your
5 home?

6 A Yes.

7 Q Okay. And, you meet them -- you leave 7-11 and go back to
8 your home?

9 A Yes. I went back home and then they came. It wasn't at
10 the 7-11.

11 MS. COLLINS: Your Honor at this time --

12 BY MS. COLLINS:

13 Q Did you have an opportunity prior to another court date to
14 listen to that 911 call?

15 A The last -- last court date.

16 Q Okay, okay. And, that was an accurate reflection of the
17 call that you had made?

18 A Yes.

19 MS. COLLINS: Okay. Your Honor, the People at
20 this time move to admit People's proposed exhibit seven
21 which is the 911 call recording.

22 THE COURT: Any objection?

23 MR. TAYLOR: No objection, Your Honor.

24 THE COURT: Okay. It's admitted.

25 (At 10:04 a.m., People's exhibit 7 is admitted

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1 in to evidence.)

2 MS. COLLINS: And, if I may play that, Your

3 Honor.

4 THE COURT: Yes.

5 MS. COLLINS: Thank you.

6 (At 10:05 a.m. to 10:11 a.m., People's exhibit 7

7 is played for the jury.)

8 BY MS. COLLINS:

9 Q So, Mr. Stites, after you placed that call, did you go
10 back to your home?

11 A Yes.

12 Q Did a police officer from the Oakland County Sheriff's
13 Office arrive?

14 A Yes, two of them.

15 Q Okay. So, let me talk to you about a couple of things
16 that you made mention of on the 911 call. I know you gave
17 a description of both the female and the male the best you
18 could about what they looked like and their ages and
19 weights and things like that, okay. Now, you make a
20 comment to the 911 dispatcher about they took my safe but
21 they left the numbers to it out in the yard. What are you
22 referring to when you tell the 911 dispatcher that?

23 A That photograph.

24 Q The owner's manual that I showed you earlier?

25 A That's got combinations to both of my safes on it.

1 Q Okay.

2 A And, it -- and they took that with them but they --
3 evidentially they dropped it and it was off to the porch
4 on the right-hand side.

5 Q Okay. So, now when did you notice that it was on the --
6 off the --

7 A Soon as I walked out the door.

8 Q Okay, to go to 7-11?

9 A (Indiscernible).

10 THE COURT: I'm sorry, you can't talk over each
11 other. Excuse me.

12 THE WITNESS: As soon as I walked out the door I
13 seen it there before I got to -- before I went to the 7-
14 11.

15 BY MS. COLLINS:

16 Q Okay. Where was it located again?

17 A It -- going down the steps, it would be on the right
18 between some bushes and the porch.

19 MS. COLLINS: Okay, okay. If I may approach the
20 witness, Your Honor?

21 THE COURT: Yes.

22 BY MS. COLLINS:

23 Q Mr. Stites, I'm showing you what's been marked as People's
24 proposed exhibit number eight. I'd ask you to take a look
25 at that. Is that -- do you recognize that?

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1 A Yes.

2 Q What is that?

3 A That's -- that's my -- literature on my safe.

4 Q Okay.

5 A I -- I wrote the number of the other safe on the back and
6 right -- there it is.

7 Q Okay. So, the numbers that are on the backside of that,
8 that's your handwriting?

9 A Yes, this --

10 Q And, that's -

11 A -- this here was the -- this here was the number to the
12 safe that they took; 16-9-9-67.

13 Q Okay.

14 A This one here is the safe -- the other safe that I got at
15 home, that's the number for that.

16 MS. COLLINS: So, Your Honor, at this time the
17 People move to admit People's proposed exhibit number
18 eight.

19 MR. TAYLOR: No objection.

20 THE COURT: It will be admitted.

21 (At 10:14 a.m., People's exhibit 8 is admitted
22 in to evidence.)

23 MS. COLLINS: Thank you.

24 BY MS. COLLINS:

25 Q When a deputy got to your home, did you bring his

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1 attention to this owner's manual?

2 A Yes.

3 Q You also made mention to the 911 dispatcher. She asked
4 you if they arrived in a vehicle and you indicated yes.

5 The female -- did you ever see her in a vehicle?

6 A No.

7 Q When you first encountered her was she in a vehicle or on
8 foot?

9 A She was on foot.

10 Q Okay. And, each time she left or came back to your home
11 that night did you see her in any vehicle?

12 A No.

13 Q And, I know that you mentioned that the first time you saw
14 the man with the gun he was in your bedroom doorway?

15 A Yes.

16 Q Did you see him arrive in a vehicle?

17 A No.

18 Q Did you see him leave in a vehicle?

19 A No.

20 Q Did you hear a vehicle?

21 A No.

22 Q Okay. So, when the dispatcher asked you if they arrived
23 in a vehicle and you told her yes, why did you say that
24 they had?

25 A Because they would have had to have a vehicle to transport

1 the safe.

2 Q Okay, okay. And, you mentioned something to the
3 dispatcher about there's a possibility that they could get
4 fingerprints?

5 A Yes. I had the TV remote in that -- in that folder --
6 that folder there. They was handling that and they could
7 get fingerprints off paper now.

8 Q Okay.

9 A And, she -- she had the remote and the coffee cup she had
10 handled so I didn't touch anything until the police got
11 there and they could get fingerprints off the remote and
12 the coffee cup.

13 Q Okay. Now, I know that you said you didn't touch
14 anything, so when the deputy from the Oakland County
15 Sheriff's Office arrived did you alert -- it was a man?

16 A Yes.

17 Q Did you alert him to the remote control and the coffee
18 cup?

19 A Yes.

20 Q I know you said the owner's manual.

21 A (Indiscernible).

22 Q Okay.

23 THE COURT: Please don't talk over each other.

24 BY MS. COLLINS:

25 Q How about the rope, was that at your home?

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1 A Yeah, it was -- it was in the bedroom in a box of stuff
2 and as I was untying it to get to the door it was -- it
3 was laid out between the hallway and the -- and had -- had
4 it out to the door there.

5 Q Okay. Mr. Stites, I'm showing you what's been marked as
6 People's proposed exhibit number one. I'd ask you to take
7 a look at that photograph and tell me if you recognize
8 what is shown in that photograph?

9 A Yeah, that's the coffee cup she was drinking coffee out of
10 and this is the remote I let her use to change the
11 channels and that brochure right there.

12 Q Okay.

13 A There's a (indiscernible), you can see both the number --
14 you can see both sets of numbers for both safes.

15 MS. COLLINS: Your Honor, at this time the People
16 move to admit People's proposed exhibit number one.

17 MR. TAYLOR: No objection, Your Honor.

18 THE COURT: It will be admitted.

19 (At 10:17 a.m., People's exhibit number 1 is
20 admitted in to evidence.)

21 BY MS. COLLINS:

22 Q And, I'm showing you now what's been marked as People's
23 proposed exhibit number two.

24 A Yes.

25 Q I'd ask you to take a look at that photograph and tell me

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1 if you recognize what is shown in that photograph?

2 A Yeah, that's the rope that they tied me up. That's the
3 hall -- that's the doorway going into the bedroom and this
4 is -- this is headed to the door right here. The door
5 right here going out -- out -- that's the main door to get
6 out.

7 MS. COLLINS: Okay. Your Honor at this time the
8 People move to admit People's proposed exhibit number two.

9 MR. TAYLOR: No objections, Your Honor.

10 THE COURT: All right. It will be admitted.

11 (At 10:17 a.m., People's exhibit number two is
12 Admitted in to evidence.)

13 MS. COLLINS: Thank you.

14 BY MS. COLLINS:

15 Q Were you there when these items, the rope and the coffee
16 cup and the owner's manual and the remote control were
17 collected by the deputy?

18 A Yes.

19 Q Okay. Did the deputy remove them from your home?

20 A Yes.

21 Q Mr. Stites, after August sixth, 2016, other than perhaps
22 being in court with the person, did you see the female
23 again?

24 A No.

25 Q Did you go to the police department at least on a couple

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1 of occasions and were you asked to look at photographs?

2 A Yes.

3 Q Do you remember at one point meeting with Detective
4 Mullins?

5 A Yes.

6 Q And, did you -- maybe did you meet with any other
7 detectives at the police department as well?

8 A No.

9 Q Did you have an opportunity to look at photographs of
10 females?

11 A Yes.

12 Q Did you have an opportunity to look at photographs of
13 males?

14 A Yes.

15 Q Okay. The photographs of the females, did you give
16 further descriptions about tattoos or things like that?

17 A Yeah, she had a tattoo on one of her arms, I didn't notice
18 what the tattoo was.

19 Q Okay, okay. When you looked at the photographs were you
20 able to identify anybody as the female that was at your
21 home that day?

22 A She -- the one -- there was a girl in there that looked a
23 lot like her, you know. But, I -- it was a picture of her
24 when they -- when they -- when they take you to jail and
25 they take your picture and she was in for -- a little

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1 rougher shape than -- so I wasn't sure about it. So, the
2 first time I went I -- I didn't want to say it was her and
3 it not be. So, I went back I think the next day and I
4 looked again and I -- I pointed her out to him that it was
5 her.

6 Q Okay. Do you remember that second time going back saying
7 this person looks familiar?

8 A Yes.

9 Q But, I'm not sure if it's her?

10 A Yes.

11 Q With regard to the male photographs that you were shown,
12 is it fair to say you were not able to identify anybody
13 with any degree of certainty either?

14 A No, I -- no I couldn't.

15 MS. COLLINS: Your Honor, I have no further
16 questions.

17 Mr. Taylor may have some questions for you
18 though.

19 THE COURT: All right, thank you.

20 Mr. Taylor?

21 MR. TAYLOR: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. TAYLOR:

24 Q And, again, thank you Mr. Stites. Although we've had this
25 conversation before I just want to make sure that even

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1 during the course of this conversation that we get some
2 details down correct. You indicated that on August sixth,
3 2016, you resided in the City of Pontiac? You lived in
4 Pontiac?

5 A Yes.

6 Q And, you lived at 17 West Rutgers?

7 A Yes.

8 Q And, is that -- West Rutgers is north of Columbia am I
9 correct? Or, is it south of Columbia?

10 A No, it's south of Columbia.

11 Q But, your street runs east and west?

12 A Yes.

13 Q And, you indicated that you had some ailments back -- you
14 --

15 A I have -- I have a little bit of a hearing problem so --

16 Q All right, I'm going to talk --

17 A -- when that shuts and this one's talking.

18 Q I'm sorry. You indicated back in August of 2016 you had
19 some health issues that you were dealing with?

20 A Yes.

21 Q You were diabetic and had some cholesterol issues, am I
22 correct?

23 A Yes.

24 Q And, it -- it affected your circulation to your -- to your
25 legs?

1 A Yes.

2 Q And, you thought back then that the doctors had at least
3 informed you that there was a chance that your legs may be
4 amputated?

5 A Yes.

6 Q You tried to combat that by walking back and forth from
7 your home to Baldwin?

8 A Yes.

9 Q And, on August sixth, 2016, you -- do you recall what time
10 it was that you left your house in order to walk towards
11 Baldwin?

12 A No, I really can't. I -- I -- I walked back and forth and
13 I'll go in and rest and then I'll go back out and walk
14 back and forth. So, I don't know what time it was.

15 Q It was -- but it was late in the evening, am I correct?

16 A Yes, it was late.

17 Q Was it after the news would come on or before the news?

18 A I -- I -- I'm not sure. I wasn't -- at that time I really
19 didn't watch the news, I watch other programs.

20 Q So, as you're walking -- you indicated that your house is
21 approximately 100 to 115 feet way from Walton?

22 A Baldwin, yes.

23 Q And, there's a building, there's a business between your
24 house and Baldwin?

25 A Yes.

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1 Q And -- and as you're walking on this particular day when
2 you get to the corner you see a young lady or lady walking
3 north on Baldwin, am I correct?

4 A Yes, she was walking north.

5 Q When you first saw her did you recognize her?

6 A No.

7 Q Who started the conversations?

8 A She did, she approached me and -- and talking.

9 Q And, she told you that you had met her before and she had
10 been to your house before?

11 A Yes, that's what she told me.

12 Q And, one -- I'm sorry.

13 A Yes, that's what she told me.

14 Q And, once she said that, you started to walk back towards
15 your house?

16 A Yes.

17 Q And, you invite her to the house?

18 A Yes.

19 Q Was there any talk about sex on the walk back to the
20 house?

21 A No.

22 Q Did she mention anything about needing money on the walk
23 back to the house?

24 A No, that was all mentioned after we got in the house.

25 Q You get in the house, you sit in the living room, am I

1 correct?

2 A Yes.

3 Q And -- but you lock your doors, you're very diligent about
4 locking your doors?

5 A Yes.

6 Q And, as you're talking you indicated that you handed her
7 the remote so she can switch the channels?

8 A Yes.

9 Q And, is that when the conversation started about sex and
10 her needing money?

11 A Yes.

12 Q And, you indicated that the negotiation was for her to
13 stay the entire night?

14 A Yes.

15 Q And, it was for the amount of \$50?

16 A Yes.

17 Q Did you discuss specifically what you were going to do in
18 terms of sex?

19 A No.

20 Q So, you go into your bedroom where the \$50 is and it's
21 inside your safe?

22 A Yes.

23 Q You open the safe and you pull out the \$4,000?

24 A Yeah, about \$4,200 to \$4,300.

25 Q At that point you believed she's still in the living room?

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1 A No, she was in -- she was -- she was behind me in the --
2 or beside me when I took the money out.

3 Q And, you indicated also there's a TV in your bedroom?

4 A Yes.

5 Q And, your thinking is that she's going to stay the night,
6 am I correct?

7 A Yes.

8 Q So, you place -- you don't give her the \$50 --

9 A No.

10 Q -- you place it on the TV?

11 A Yes.

12 Q On the TV stand?

13 A Yes.

14 Q Does she pick up the \$50 at that point?

15 A No.

16 Q After -- after you put the \$50 on the nightstand, what do
17 you do?

18 A She -- she got undressed and stood over my face.

19 Q Are you undressed at that time?

20 A I had -- I had -- I just had my briefs on. I had my pants
21 off and -- and just had my briefs on.

22 Q You said she's -- she's sitting on top of you and you're
23 performing oral sex on her at that time?

24 A Yes.

25 Q How long does that last until she decides -- she says she

1 needs to go to the store?

2 A Not very long.

3 Q Okay. And, so she takes the \$50 off the TV stand and then
4 she leaves?

5 A Yes.

6 Q She -- she gets dressed, am I correct?

7 A Yes. She said she was going to the store to get her
8 something to snack on and something to drink and she'd be
9 right back.

10 Q But, prior to her leaving the home you offered her
11 something to eat or drink from your kitchen --

12 A Yes.

13 Q -- but she declined to do that?

14 A Yes.

15 Q She leaves, she comes back, and at that time you have to
16 open the door to let her in; am I correct?

17 A Yes.

18 Q Are you guys sitting in the living room at that point when
19 she comes back?

20 A Yeah, we was sitting in the living room watching TV.

21 Q At that -- she's still handling the remote, am I correct?

22 A (Indiscernible).

23 Q Was she the one changing channels?

24 A Yes.

25 Q And, let me ask this question, you indicated that she had

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1 drank coffee. Did she drink -- did she drink the coffee
2 before she left the first time or when she got back?

3 A She had some the first time and then she had some when she
4 come back.

5 Q But, to the -- to the best of you knowledge which you
6 remember, when she came back she didn't have anything that
7 -- that indicated she went to a store, did she?

8 A No.

9 Q How long was she back when she asked if she could order
10 some crack cocaine?

11 A It was probably -- liquor store is just -- probably maybe
12 five, six minutes I'm thinking.

13 Q So -- and then you said you saw her make a call to someone
14 in order to bring crack cocaine to the home?

15 A Yes.

16 Q And, when you say you saw her make a call, did she
17 actually pick up a phone or did she look as if she was
18 text messaging; what was the method that she used?

19 A She -- I think she -- she had -- she told what house --
20 what the house number was. She had her own phone and she
21 didn't have any text messages, I don't know, but I know
22 she told him over the phone what the house address was.

23 Q Okay. And, after she made this call how long did it take
24 the person to get to the house?

25 A Must have been 20 minutes, probably sometime -- I'm not

1 really sure. Probably some -- in the vicinity of 20
2 minutes, could have been more or less.

3 Q And, she was the one that opened the door and allowed the
4 person in the house?

5 A Yes.

6 Q And, when she opened the door and the person came in, the
7 person went immediately to the kitchen area, am I correct?

8 A Yes.

9 Q And, you didn't get a look at that person?

10 A No, he -- he walked between me and the TV but he kept his
11 face looking towards -- looking towards the TV which would
12 be the back of his head towards me. He didn't -- he
13 didn't give me no -- he didn't let me see him.

14 Q But, the woman followed him --

15 A Yes.

16 Q -- immediately to the kitchen?

17 A Followed him into the kitchen.

18 Q And, I believe you indicated on direct examination that
19 they were in the kitchen approximately five to six
20 minutes?

21 A Yes.

22 Q And, then when they -- when the person -- when the male
23 left the kitchen he immediately went out the door?

24 A Yeah, he walked back. Still didn't want to face me too
25 much and he went back out the door.

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1 Q And, you followed him and you locked your door?

2 A Yes.

3 Q And, you said there's -- there's three locks; there's the
4 outside lock to the screen door, am I correct? It just
5 has the push button.

6 A Yes.

7 Q And, then there's the deadbolt and the lock on the
8 interior door?

9 A Yes.

10 Q And, then at that point you and -- you and the woman go
11 directly to the bedroom?

12 A Yes.

13 Q Do you do any drugs before you get into the bedroom?

14 A Yeah, she wanted me to hit this tube or pipe or whatever
15 it is and I told her I -- I told her to do it and just
16 blow it in my mouth.

17 Q And, was there any --

18 THE COURT: I'm sorry. I hate to interrupt you
19 but I do have to handle a few matters right at 10:30. So,
20 if you'll hold that thought.

21 Ladies and gentlemen, I'm going to give you a
22 break for about 15 minutes. I have to handle a few quick
23 matters, but stretch your legs, get some coffee, get some
24 water, and come back at 10:45, okay.

25 THE CLERK: All rise for the jury.

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1 (At 10:30 a.m., jury exited courtroom.)

2 THE COURT: Deputies you can take him down so he
3 can take a break and bring him back up please. Thank you.

4 Everyone else please be seated.

5 (At 10:31 a.m., proceeding recessed.)

6 (At 10:50 a.m., proceeding reconvened.)

7 THE CLERK: All rise.

8 Calling the People versus Kristopher Hughes,
9 case number 2016-260154-FC.

10 MS. COLLINS: Kelly Collins appearing on behalf
11 of the People, Your Honor.

12 MR. TAYLOR: Richard Taylor on behalf of Mr.
13 Kristopher Hughes.

14 THE COURT: We ready to proceed?

15 MR. TAYLOR: Yes, Your Honor.

16 MS. COLLINS: Yes, Your Honor.

17 THE CLERK: All rise for the jury.

18 (At 10:51 a.m., jury entered courtroom.)

19 THE COURT: Thank you, please be seated.

20 Ladies and gentlemen, I'm just going to remind
21 you to take your notebooks with you. Don't leave them in
22 the courtroom please. Thank you.

23 Mr. Taylor?

24 MR. TAYLOR: Thank you, Your Honor.

25 BY MR. TAYLOR:

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1 Q Mr. Stites, I believe when we left off I was asking you
2 about the drug use that you and the woman were engaged in.
3 You indicated that you did not smoke the particular
4 apparatus that she was using to smoke the drugs, am I
5 correct? You never put your mouth to the --

6 A No, no. I don't remember doing it, no.

7 Q And, then she -- she blew the smoke into your face?

8 A Yes.

9 Q And -- and where did that take place?

10 A Right after -- as soon as the guy came and left and then
11 her and I went back into the bedroom.

12 Q Okay. And, do you get undressed at that point?

13 A Yes.

14 Q Are you still down to your briefs or --

15 A Yeah, down to by briefs.

16 Q Because at that -- you basically -- you were impotent at
17 that point, am I correct?

18 A Yes.

19 Q So, you had no anticipation of any penetration into the
20 woman?

21 A No.

22 Q And, so your whole -- your whole purpose was to perform
23 oral sex on her?

24 A Yes.

25 Q And, once you get back into the bedroom, does she undress

1 as well?

2 A Yes.

3 Q Is she totally nude?

4 A No, she just had her pants and her -- lower half undone.

5 Q So, she still had her blouse or top on?

6 A Yes.

7 Q And, then at that point you laid on -- on your back?

8 A Yes.

9 Q And, she sits on top of you, am I correct?

10 A Yes.

11 Q And, you began to perform oral sex on her again?

12 A Yes.

13 Q Now, is she -- is she facing you at that point or is she
14 facing the opposite direction when she's sitting on top of
15 you?

16 A I'm not -- I don't remember.

17 Q How long are you engaged in oral sex when she jumps off of
18 you?

19 A It wasn't very long. It wasn't very long.

20 Q But -- but let me backtrack just a little bit. Before you
21 engage in the oral sex she walks out of the room, am I
22 right?

23 A Yeah, she went to get a -- she said she needed to get a
24 drink of water or something to drink. She had her coffee
25 cup. Now (indiscernible) came from the living room and

1 she brought that into the bedroom. So, I don't know if
2 she went out there and grabbed the coffee that she had out
3 there or if she went and grabbed a drink out of the faucet
4 but that's what she said she was going to do.

5 Q Okay. And -- okay. And, she came back in and then she --
6 and that's when she started to sit on your face, am I
7 correct?

8 A Yes.

9 Q And, so how long after that did she get off of you went
10 you noticed that there was a male standing --

11 A Less than a minute.

12 Q And, you didn't hear the door open or close?

13 A No.

14 Q And, there was nothing that sounded like somebody was
15 smashing in the door or anything of that nature?

16 A No, there was no smashing sound.

17 Q And, so -- and you said when she got off of you she kind
18 of went to your left but on the opposite side of the
19 person who was holding the gun?

20 A Yes. So, she -- so she must -- she must have been -- she
21 must have had her back to me, backed up she must be,
22 'cause she went to the left. That's the only way she
23 could go.

24 Q And, did you hear the person with the gun make any threats
25 to her?

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1 A No, she mentioned -- I'm thinking he must of touched her
2 or something 'cause she -- she must have -- maybe she had
3 her back to me 'cause yeah she had -- she had her back to
4 the doorway 'cause she didn't --- she -- she mumbled
5 something and then moved.

6 Q And, then you heard -- you heard the person with the gun
7 tell you to roll over or they were going to shoot you?

8 A Yes.

9 Q And, at that point your face is in that pillow, you're
10 face down?

11 A In the mattress, yes.

12 Q Face down in the mattress?

13 A Yes.

14 Q And, is it at that point when you feel someone tying you
15 up?

16 A Yes.

17 Q And, who do you think was -- I mean could you tell like
18 was it the male or the female that was tying you up?

19 A I couldn't tell. I don't know.

20 Q And, did you hear the female make any statements about
21 don't shoot him, he's a old man, or something like that?

22 A No.

23 Q You didn't hear her make any statements like that?

24 A No.

25 Q But, you did hear her make statements about where the keys

1 were and where the safe was?

2 A Yes.

3 Q And -- and then in that position somebody's rumbling --
4 rumbling through your house, am I right?

5 A Yes.

6 Q And, you feel the clothing and things of that nature being
7 thrown on top of you?

8 A Yes.

9 Q And, at the same time someone is holding your head down,
10 am I right?

11 A Yes.

12 Q You have two TVs in your room -- you have one TV in the
13 bedroom and you've got one TV in the living room?

14 A Yes.

15 Q Were any -- when you finally got yourself loose and looked
16 around were any of those TVs missing?

17 A No.

18 Q Other than the items that were in your safe, was there
19 anything else missing?

20 A Well, I thought they had took my wallet but I -- I didn't
21 touch nothing till the police come there 'cause I wanted
22 them to see what -- I didn't want to mess any of the
23 evidence up so at -- I told them -- I told them that they
24 took my wallet but after they left when I was moving stuff
25 off the bed I found my wallet.

1 Q And, I just want to take you back. And, while they're in
2 the bedroom, you indicated that you heard the female say
3 she found the keys, am I right?

4 A Yes.

5 Q And -- and at some point you believe that it was the
6 female that was attempting to open the safe?

7 A Yes.

8 Q And, the only safe that contained anything of value was
9 the safe that was sitting on top?

10 A Yes.

11 Q And, you never went into the safe at the bottom -- the
12 bottom safe when the female was --

13 A No, I didn't keep much in there but some postage stamps I
14 think I -- the only thing I had in the bottom safe.

15 Q And, it's your -- on direct examination you indicated that
16 at some point you heard somebody leaving out of there it
17 sounded like they stumbled over something, am I right?

18 A When they picked up the safe they had to step over some
19 boxes of stuff and they tripped and fell and then they got
20 back up and lugged the safe out.

21 Q And, you indicated that they were in that room for
22 approximately ten minutes, am I right?

23 A Yes, just trying to open the safe.

24 Q Okay. And, when the -- when the first person left out you
25 heard the door close, am I right?

1 A Yes.

2 Q And, then you heard a second person leave out?

3 A Yes.

4 Q Okay. And, you heard your door close at that point?

5 A Yes.

6 Q And, that's when you felt it was safe for you to kind of
7 lift your head up and look around and see what was going
8 on?

9 A Yes.

10 Q And, at that point you noticed that there was no one else
11 in the house?

12 A Yes, there was no one else in the house then.

13 Q But -- but -- and you -- you indicated that you were tied
14 up fairly loosely and you were able to get yourself loose?

15 A Yes.

16 Q And, you put on some close and you grabbed the keys to
17 your motorbike or your moped?

18 A Yes.

19 Q And, you rode the moped approximately an eighth of a mile
20 to the 7-11?

21 A Yes.

22 Q And, you would have had -- again, you would have had to
23 travel north on Baldwin to get to the 7-11?

24 A Yes.

25 Q And, you didn't see anyone at that point who -- who you

1 believed had been in your house?

2 A No.

3 Q You didn't see the woman or the man?

4 A No.

5 Q And, when you got to 7-11, when you heard the 911 call,
6 you made the 911 call?

7 A Yes.

8 Q And -- and the best that you could to the 911 operator,
9 you gave her a description of -- of the individuals you
10 thought were in your home?

11 A Yes, the best that I could.

12 Q The best that you could. And, as you indicated, when you
13 got back to your home you didn't touch anything, you
14 didn't disturb anything, you wanted to make sure that you
15 preserved some evidence for the police to collect?

16 A Yes.

17 Q And, how -- was the police there when you got back to your
18 home or --

19 A No.

20 Q How long did it take the officers to arrive?

21 A Not very -- it was less than five minutes.

22 Q At any point in time after you heard the -- your door shut
23 the first time, did -- did the -- did the female try to
24 assist you or help in any way, shape, or form?

25 A No.

1 Q Did you believe that the female was involved in robbing
2 you or taking your personal items?

3 A Yes.

4 Q What made you think that?

5 A 'Cause she -- because she knew where the keys was, she
6 knew where the keys -- she knew the area to where the keys
7 was (sic) and she was trying to -- she was trying to open
8 the safe and she said she couldn't get it open, she was
9 telling him.

10 Q And, you saw the person -- you saw the weapon that the
11 person had and you believed it was an automatic, am I
12 correct? You believed the weapon was an automatic, am I
13 correct?

14 A Yes, it was an automatic handgun.

15 Q At any point in time before you were placed face down on
16 the mattress did you see the female (indiscernible)? Did
17 you see the lady with the weapon at any time?

18 A No, I did not see her.

19 Q Okay.

20 A I did -- I heard the gun rack. He was fooling -- he was
21 fooling with the gun and -- and I took -- and it sounded
22 to me like he was getting ready to -- and he give it to
23 her while he carried the safe out.

24 Q And -- and --

25 A That's my thoughts, I didn't see it.

1 Q Okay. And, in that timeframe that they were your bedroom,
2 after -- after the woman got off of you, did you hear him,
3 the male, make any threats to her or make her do anything?

4 A No.

5 Q So, everything that you -- she was doing was on her own --

6 A Yes.

7 Q Was on her own?

8 A Yes.

9 MR. TAYLOR: If I could just have one moment,
10 Your Honor?

11 THE COURT: Yes.

12 MR. TAYLOR: All right. Thank you, Judge. I
13 have no further questions.

14 THE COURT: Ms. Collins?

15 MS. COLLINS: Thank you.

16 REDIRECT EXAMINATION

17 BY MS. COLLINS:

18 Q Mr. Stites, I know you were asked questions about what the
19 female was doing. How certain are you that there was also
20 a male there with a gun?

21 A Because when she moved he had -- he had -- he had -- he
22 had the handgun right to my face.

23 Q Okay.

24 A He told me -- he told me to roll over on the bed or he'd
25 shoot me.

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1 Q Okay. So, are you sure that there was the female and the
2 male involved?

3 A Yes.

4 MS. COLLINS: I have no further questions, Your
5 Honor.

6 THE COURT: Anything else?

7 MR. TAYLOR: Nothing further.

8 THE COURT: Okay. Thank you, sir. You can step
9 down. Watch your step. You can step down. Watch your
10 step as you go down.

11 MS. COLLINS: May Mr. Stites be excused?

12 THE COURT: Any objection, Mr. Taylor?

13 MR. TAYLOR: I have no objection, Your Honor.

14 THE COURT: Okay. He may be excused.

15 (At 11:03 a.m., witness excused.)

16 MS. COLLINS: Your Honor, the People next call
17 Lisa Weber to the stand.

18 THE COURT: Thank you.

19 THE CLERK: Please raise your right hand.

20 Do you swear or affirm the testimony you're
21 about to give is the truth and nothing but the truth?

22 MS. WEBER: Yes.

23 MS. COLLINS: Good morning.

24 THE WITNESS: Good morning.

25 MS. COLLINS: Could I please have you state your

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1 full name and spell your last name for the record?

2 MS. WEBER: Lisa Marie Weber. W-E-B-E-R.

3 LISA WEBER

4 called at 11:03 a.m., by the People and sworn by the clerk
5 testified:

6 DIRECT EXAMINATION

7 BY MS. COLLINS:

8 Q And, Ms. Weber, if I may ask, how old are you?

9 A I am 41.

10 Q I would like to talk and direct your attention back to the
11 date of August sixth of 2016. At that time were you
12 living in or around the Pontiac area?

13 A Yes, I was.

14 Q And, during that time -- well let me ask you this, have
15 you had struggles with drugs?

16 A Yes, I have.

17 Q Do you have a particular drug of choice?

18 A Crack cocaine.

19 Q And, referencing back to August of 2016, how would you
20 characterize your drug problem or drug issues?

21 A It was -- I was actually pretty bad into it. I would use
22 all of my social security money. At the time I was
23 stealing from my mother, using my, you know, pill money --
24 well basically I was prostituting for the dope. It was
25 pretty heavy.

1 Q And, how long have you had this addiction or this issue?

2 A Well, I -- I actually --

3 THE COURT: I'm sorry, ma'am. You have to speak
4 up otherwise we can't pick you up on the recording, okay.

5 THE WITNESS: Actually I used for a year, I
6 stopped for four and a half years, and then I picked up
7 again for -- well it was -- it would have been a year in
8 August but I quit, so I struggled -- it's a daily
9 struggle.

10 BY MS. COLLINS:

11 Q Okay. Now, you mentioned that you used for a year and
12 then you had been sober for four and a half years and then
13 you relapsed and you went back to the drugs, correct?

14 A Yes, I did.

15 Q Do you recall what year it was or when it was that you
16 went back to the drugs?

17 A It would have been I'd say 2015.

18 Q Okay. So, fast-forwarding by the time we get to August of
19 2016 your addiction is significant?

20 A Yes it is.

21 Q Okay. Do you have a recollection about the date of August
22 sixth, 2016, and specifically as it relates to a man named
23 Mr. Ronald Stites?

24 A Yes, I do. I didn't know of him as Ronald Stites, but yes
25 I do.

1 Q Okay. So, let -- let's talk about how -- how did you know
2 this person if you didn't know him by name?

3 A Because when I actually first met him it would have been
4 prior -- a couple years prior to that. I actually was
5 walking down the street, the same way I met him you know
6 recently. I was walking down Baldwin heading towards 7-11
7 and he asked me if I would like to make some money.

8 Q Okay. So, the first meeting that you had with him he had
9 propositioned you for sex?

10 A Yes he did.

11 Q Now, you said that that was a couple years prior to you
12 meeting up again with him?

13 A Yes. And, it was the same way I met up with him this
14 time. He has a bad memory. He didn't recognize me or
15 remember that I had actually been there prior.

16 Q Okay. Did you say anything trying to remind him that you
17 knew who he was or that you had met him before?

18 A Yes, I actually said, you know, Mr. Stites -- or I
19 actually said I have been there with you before, I have
20 been to your home before. And, he said basically that he
21 didn't remember me.

22 Q Okay. So, in 2016, in August of 2016, on this August
23 sixth, 2016, date, where were you when you first met up
24 with this man? Is he now known to you as Ronald Stites?

25 A Yes he is.

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1 Q Okay. On that date you didn't know him by name?

2 A No I didn't.

3 Q Okay. So, how was it that you met up with him?

4 A I was walking to a 7-11. That would be, I believe, going
5 northbound possibly.

6 Q Okay.

7 A And, then probably --

8 THE COURT: Okay, I'm sorry. You keep going in
9 and out so we're not picking you up very well. I know
10 there's a microphone near you.

11 THE WITNESS: This one right here?

12 THE COURT: Yeah, if you could maybe just --

13 THE WITNESS: Turns towards it?

14 THE COURT: Yes, please. Thank you.

15 BY MS. COLLINS:

16 Q You said you were walking towards 7-11?

17 A Yes, I was.

18 Q And, tell me about your initial interaction with Mr.
19 Stites.

20 A Well, actually he was at the corner of the street and I
21 was actually heading towards Columbia to the 7-11. He had
22 seen me and he stopped me and he asked me if I wanted to
23 make some money. And, I told him, you know, yes. At the
24 time I really wasn't looking to make any more money I was
25 looking to go get, you know, coffee and a lighter for my

1 cigarettes, and of course with my addiction I said yes.

2 Q Okay.

3 A So, that's how we actually went about and then we went
4 back to his house.

5 Q Okay. Did you discuss details when you were out on the
6 street with Mr. Stites or was that discussed further as
7 far as how much and for what?

8 A I'm not really sure but I believe it was when we got into
9 the house. The (indiscernible) house.

10 Q Now, let me ask you this, prior to meeting up with him, I
11 know you said you weren't really out there looking to make
12 money.

13 A Right.

14 Q Had you done drugs that day?

15 A Yes I did.

16 Q And, do you know how much?

17 A No, I really couldn't tell you, at the time I wasn't
18 keeping track 'cause the addiction was really high at that
19 time.

20 Q Do you know whether you doing -- what -- when I say doing
21 drugs is it all crack cocaine?

22 A Yes it was.

23 Q And, do you know how often or how many days in a row let's
24 say you had done the crack cocaine before meeting up with
25 Mr. Stites on August sixth?

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1 A Actually I would go for, you know, two or three days and
2 then I'd go home and get sleep and then I'd go again
3 another two, three days, maybe four at tops. So, it was
4 usually two, three days, possibly four.

5 Q Any reason to think it was different on this occasion?

6 A No.

7 Q If you were not actually out there at that time looking to
8 make more money, does that give you any indication or
9 would that give us any indication as to whether or not you
10 had already done a sufficient amount of drugs to satisfy
11 your addiction at that time?

12 A Yeah.

13 Q What would that tell us?

14 A That I would have been getting ready to get coffee and
15 head home.

16 Q Okay, okay. Instead you go with Mr. Stites to his home?

17 A Yes.

18 Q Once you get to his home, what do you remember about that?

19 A Actually we got there and he was filling up some coffee
20 and I said yes. So, we -- he showed me his new coffee
21 pot, his new little grinder, and we used it. We had
22 coffee, you know, and sat down and watched a little TV.
23 We had discussed -- well I already knew what he wanted
24 towards, you know, trading the money for sex because he
25 always wanted the same thing, but yeah he would charge --

1 give me \$50 but he actually wanted me to stay the night
2 and I told him it would be more if he wanted me to stay
3 the night.

4 Q Okay.

5 A But, I really didn't want to stay the night anyways so I
6 wasn't going to stay the night with him. And, he was told
7 I was going to stay the night.

8 Q So, you told him you were going to stay the night but that
9 it would be more --

10 A Yes.

11 Q -- but you mentioned something about \$50?

12 A Yes.

13 Q Did he want you to stay the night for the \$50?

14 A Yeah he did.

15 Q Excuse me. At some point did he give you \$50 or get \$50
16 out or anything like that?

17 A Yeah, he gave me \$50.

18 Q And, where did he get that from?

19 A I believe out of his wallet.

20 Q Okay. And, when he gave you the \$50 do you remember where
21 you were?

22 A I was actually sitting -- or he had a recliner here and a
23 recliner here. I was in the recliner closest to the
24 kitchen.

25 Q Okay. And, so where you in the living room?

1 A Yes.

2 Q He gave you the \$50. At some point did -- well what did
3 you do after he gave you the \$50?

4 A I made a phone call.

5 Q At any time did you leave his home to go someplace else?

6 A Yes, actually I did. I left to -- actually that was
7 before he even gave me the \$50 and left -- I left to go
8 get -- no that was the second time he gave me money, I'm
9 sorry. He gave me the \$50 to go get the drugs and then I
10 actually came back after I -- I got it I started smoking
11 with him.

12 Q Okay. So, after he gave you the \$50 you left. Where did
13 you go?

14 A To the store.

15 Q And, did you tell him where you were going?

16 A No.

17 Q Okay. Did you tell him why you were leaving?

18 A No.

19 Q Had you engaged in any type of sexual acts with him before
20 leaving that time?

21 A No, I didn't.

22 Q And, when you went to the store what did you get or what
23 did you do?

24 A I was -- I was actually getting something to drink.

25 Q Did you get anything to drink?

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1 A Yeah -- no I actually didn't. I actually got some -- got
2 some drugs.

3 Q And, when you got those drugs what did you do? Did you
4 smoke --

5 A Smoked them.

6 Q Okay. And, I guess I should ask you that. When you take
7 crack cocaine do you smoke it? How do you take it?

8 A Smoke it.

9 Q Okay. So, you smoked it where?

10 A Probably the bushes.

11 Q At some point did you go back to Mr. Stites' home?

12 A Yes, I did.

13 Q And, when you got back to Mr. Stites' home how did you get
14 back in?

15 A I -- he was -- actually knocked on the door and he let me
16 in.

17 Q And, once you came in what do you remember doing at that
18 point?

19 A I was sitting back down having another cup of coffee and
20 that's when he -- I said -- I mentioned to him about
21 basically about my addiction and whatever. And, he
22 actually (indiscernible) could I get some crack. And, I
23 told him yes and he said okay you make the call. And, I
24 told him yes I could.

25 Q Okay. And, did you make the call?

1 A Yes, I did.

2 Q Who did you call?

3 A K-1, Killer.

4 Q And, the person known to you as K-1 or Killer is that
5 someone that you are familiar with?

6 A Yes.

7 Q Is that someone that you had purchased or got drugs from
8 before?

9 A Yes it was.

10 Q How many times would you say?

11 A I don't know maybe ten tops.

12 Q And, is that a person that you would recognize again if
13 you saw him?

14 A Yes.

15 Q Do you see the person known to you as Killer or K-1 in the
16 courtroom today?

17 A Yes, I do. Sitting right there, white shirt, glasses.

18 MS. COLLINS: Your Honor, may the record reflect
19 that the witness has identified the defendant in this
20 matter Kristopher Hughes.

21 THE COURT: It does, thank you.

22 MS. COLLINS: Thank you.

23 BY MS. COLLINS:

24 Q You said that you called him and ordered up some drugs?

25 A Yes.

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1 Q What happened after you made that call?

2 A He showed up with the -- with the crack.

3 Q Okay.

4 A I -- he -- the door we had left open, the screen door was
5 unlocked. I met him at the screen door. He came in and
6 he was standing by the flat screen. So, he was walking
7 back and forth by his flat screen. I had -- I had sat
8 down and then he walked, you know, into the kitchen area.

9 Q And, when he walked into the kitchen area, what did you
10 do?

11 A I went -- I went to the kitchen area, you know, traded him
12 the cash for the -- the crack.

13 Q So, let me ask you this. Where was Mr. Stites when you
14 went into the kitchen?

15 A Sitting in his chair.

16 Q Okay. What room was that in?

17 A The living room.

18 Q And, when you were in the kitchen, did you have any
19 discussion that you recall with the defendant?

20 A Not that I recall.

21 Q You said that you exchanged money for the drugs?

22 A Yes.

23 Q Where had you gotten the money?

24 A From the table that the little -- fold up table that was
25 there. Like the dinner trays.

1 Q Okay.

2 A It was sitting between me and Mr. Stites.

3 Q And, where had that money come from, if you know?

4 A I believe it came from his wallet.

5 Q Okay. And, when you say his wallet, are you referring to
6 Mr. Stites?

7 A Yes, ma'am.

8 Q After you exchanged the money for the drugs, was that --
9 did that happen in the kitchen?

10 A Yes, I exchanged in the kitchen.

11 Q Then what happened?

12 A I sat back down and after came -- Killer was still in the
13 kitchen and he took Mr. Stites' grinder.

14 Q Now, how do you know that, did you see him do that?

15 A No, but after he left the grinder and the Pyrex, the glass
16 little measuring cup was missing. Mr. Stites went in the
17 kitchen and he was looking around 'cause he didn't know
18 why he was in the kitchen. He got real nervous that he
19 was in the kitchen and, you know walked -- pacing back and
20 forth from the bedroom -- you know by the bedroom door
21 into the front door. So, he went in the kitchen and
22 looked and it was missing.

23 Q Okay. Did you and Mr. Stites have any type of interaction
24 or discussion about the fact that he noticed his Pyrex and
25 his grinder missing?

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1 A Yes. He asked me why would you do that.

2 Q At that point had he defendant already left the home?

3 A Yes.

4 Q Okay. What -- tell me about doing the drugs. Did you do
5 the drugs at Mr. Stites' home?

6 A Yes we did.

7 Q Where were you when you did the drugs?

8 A There was like a little -- okay the TVs -- the TV was here
9 and the hallway was here to the bedroom. There's a little
10 island type thing that was built on to the wall in the
11 corner. I don't know what it's called but there's like a
12 little corner shelf thing that was in the wall. That's
13 where we stood and did it.

14 Q Okay. Is that right outside the bedroom?

15 A Yes it is.

16 Q Okay. And, how did you ingest the drugs?

17 A I smoked it.

18 Q And, how did Mr. Stites ingest the drugs?

19 A I blew it into his mouth a couple times and he hit once.

20 Q At some point did you use up your supply of the drugs that
21 you had purchased?

22 A Yes we did.

23 Q And, what did you do after that?

24 A We went into the bedroom and we got -- you know got naked
25 and that's when he started performing oral sex on me.

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1 Q Where was he when he was performing oral sex on you?

2 A On the bed upside down; laying on his back.

3 Q And, where were you?

4 A Standing over him.

5 Q Do you remember if you were facing him or if you were
6 facing the opposite direction?

7 A I was facing the door.

8 Q You were facing the door. So, would that have been
9 opposite of where his face was?

10 A He was like upside -- his face was up and I'd be facing
11 like forward towards the door.

12 Q And, was his head between you and the door or behind you?

13 A Between me and the door.

14 Q At any point did you leave the room to go get a glass of
15 water, go get something to drink, or anything like that?

16 A No, I had took coffee into the bedroom with me.

17 Q What happened next?

18 A I -- we was in there for a few minutes, the next thing I
19 know I see K-1, Killer, walk into the room with a gun
20 pointed at us and told me to tie him up. If not he was
21 going to kill him.

22 Q Did you tie Mr. Stites up?

23 A Yes I did.

24 Q How did you tie him?

25 A Put him -- hands behind his back and his legs.

1 Q Okay. Was Mr. Stites still face up on the bed?

2 A No he was actually face down.

3 Q And, do you know why he had changed positions and gone
4 face down?

5 A He me to turn him over.

6 Q When you say he told me, who's he?

7 A K-1.

8 Q Okay. What do you recall happening next? What is
9 happening in the bedroom after you tie Mr. Stites up?

10 A He -- the -- trying to get the safe open then the next
11 thing I know (indiscernible). He gets the --

12 THE COURT: Hang on, I'm sorry. We're not
13 picking you up. Why don't you -- can you grab the
14 microphone and just hold it while you're talking please?

15 THE WITNESS: Put it on my lap, you mean?

16 THE COURT: I don't know if on your lap is going
17 to work. Just why don't you hold it as you're speaking.

18 THE WITNESS: Okay.

19 BY MS. COLLINS:

20 Q Okay, and I'm sorry. What is happening? You tie up Mr.
21 Stites and then what do you remember?

22 A Rumbling through the room and then the next thing you know
23 he grabs the safe and starts -- he walks out the door with
24 it.

25 Q Okay. Do you -- do you say anything to the defendant

1 about where the keys are or, you know, being quick about
2 it or leaving, anything like that? Do you say -- what are
3 you saying to the defendant?

4 A Might have been -- might have been something about they're
5 in the closet, the drawer, something like that possibly.

6 Q Okay. What's in the closet?

7 A The keys maybe.

8 Q And, do you -- you said that you turned over Mr. Stites to
9 be face down?

10 A Mm-hm.

11 Q Do you remember holding him down ever?

12 A I could have, I don't remember.

13 Q At any point did you try to open the safe, do you recall?

14 A I don't recall.

15 Q Anything else that you can remember about the room itself
16 and what's happening once you tied up Mr. Stites?

17 A Nothing that I can recall.

18 Q As far as you could see, was the defendant ever successful
19 of getting into the safe while he's in the bedroom?

20 A No.

21 Q You said that he took the safe?

22 A Yes.

23 Q What did you see when he took the safe, where did he go?

24 A Out of the front door.

25 Q Did you follow him out the front door? How did you know

1 he went out the front door?

2 A That's the only way he could have went out. After he left
3 I had grabbed my clothes and I left.

4 Q Ms. Weber why is it that you didn't -- did you call the
5 police?

6 A No, I didn't.

7 Q Why didn't you call the police?

8 A 'Cause I was scared for my life at the time.

9 Q Okay. Why were you scared for your life?

10 A Because he said he would shoot Mr. Stites so why wouldn't
11 he, you know, have tried to shoot me.

12 Q Okay. Now, you said that you left --

13 A Yes.

14 Q -- the house. Do you remember where you went?

15 A To my friend's house.

16 Q I'm sorry, where?

17 A To a friend's house.

18 Q Okay. And, let me ask you this. In the days following,
19 did you continue to do drugs?

20 A Yes I did.

21 Q Now, did there come a point, I know that you said that you
22 didn't call the police, but did there come a point where
23 the police or a representative from the police somehow got
24 in contact with you?

25 A Yes.

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1 Q And, how did that come about, if you know?

2 A They contacted -- they actually showed up at my mom's
3 house and left a card with her.

4 Q Okay. And, in leaving a card with your mother, did you do
5 something with that information on the card? It was a
6 business card?

7 A Yes.

8 Q Okay. Did you do anything with that information?

9 A Yes, I actually contacted (indiscernible) Mullins.

10 Q And, do you recall exactly what date?

11 A No, I don't recall what date it was. I know it was on --
12 it was on -- I believe on a Monday.

13 Q If my information shows that on August 16th, 2016, you went
14 into speak with the police, any reason to doubt that that
15 was the date?

16 A I wouldn't doubt that at all.

17 Q Okay. So, let me ask you about the time in between August
18 sixth and August 16th, were you still doing drugs?

19 A Yes I was.

20 Q And, in fact did you have any interaction with the
21 defendant between August sixth and August 16th?

22 A Yes, I did.

23 Q So, talk to me about that interaction with you and the
24 defendant after what had happened at Mr. Stites' home.

25 A It was probably the money situation that I had got and

1 trading money for drugs, giving him money -- they money
2 back for drugs. Even though he said he was going --
3 probably -- you know I was afraid and the fear of him, you
4 know, killing me or whatever, shooting me, we needed
5 drugs, the addiction is so powerful you would override,
6 you know -- the drugs will override anything basically.

7 Q Okay. So, do I understand you correctly were you -- were
8 you afraid of the defendant?

9 A To a point, yes I was.

10 Q But, you still purchased drugs from him after that?

11 A Yes. Yes.

12 Q Okay. Do you recall how many times you went back to the
13 defendant between August sixth when what happened at Mr.
14 Stites' happened, to the time -- and I'll use August 16th
15 when you go talk to the police, how many times you had
16 gone to see the defendant to purchase drugs?

17 A No, I don't recall.

18 Q Okay. Do you recall the first time that you went back to
19 the defendant to get drugs from him?

20 A Probably a couple days later.

21 Q Okay. And, did he require you to pay for the drugs? Like
22 tell me what was going on.

23 A No, it wasn't really a requirement. He gave me a little
24 bit of money and I just gave him the money basically for
25 the drugs.

1 Q Now was that money in exchange or to pay you for your
2 participation in the robbery of Mr. Stites?

3 A No, I took it -- I took it as basically as not, you know,
4 contacting the police is how I really took it, you know,
5 afterwards.

6 Q Okay. So, do I understand you correctly that he gave you
7 drugs --

8 A Basically, yes.

9 Q -- and didn't require you to pay for them?

10 A Basically, yes.

11 Q Okay. Did he give you any money?

12 A Yes he did. And, I believe that money was basically hush
13 money, you know, for me not to call the cops.

14 Q Now, I know you say that you believe that. Was that a
15 discussion that you and the defendant had?

16 A No.

17 Q Did you in fact take the money?

18 A Yes, but I used it back with him.

19 Q You -- I'm sorry, what?

20 A I used it with him.

21 Q Okay. So, after that you used it with him to purchase
22 drugs?

23 A Yeah, uh-huh.

24 Q Is that a yes?

25 A Yes, sorry.

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1 Q Okay. Go in and you speak with the police on August 16th
2 and during that interview with them, do you tell the
3 police what happened on August sixth?

4 A I wrote down my statement, yes I did.

5 Q Do you tell the police about you and Mr. Stites having
6 sex?

7 A I told them everything.

8 Q You purchasing the drugs and doing the drugs?

9 A Yes.

10 Q Do you tell the police who the person is that came in with
11 the gun?

12 A Yes.

13 Q At that time did you know the person by his actual name?
14 Did you know someone by the name of Kristopher Hughes?

15 A No I didn't.

16 Q Okay. How did you know him?

17 A K-1 or Killer.

18 Q And, at some point during that exchange with the police on
19 August 16th were you shown a picture and asked if that is
20 the person that you know as K-1 or Killer?

21 A Yes.

22 Q And, was that the person that you know as K-1 or Killer?

23 A Yes it was.

24 Q Was that in fact a picture of this defendant?

25 A Yes.

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1 Q Is the defendant someone that you were familiar with?

2 A Yes he is.

3 Q So, if it had been a picture of me would you have been
4 able to tell the police whether or not I was K-1 or
5 Killer?

6 A Yes, if you were the person.

7 Q Okay. Is there any distinguishing features about K-1 or
8 Killer about the type -- you know facial hair or whether
9 or not he wears glasses or whether or not he's got any
10 facial features that you are -- are distinct for you?

11 A At the time he had square black framed glasses.

12 Q Okay.

13 A And, if I'm not mistaken he has a chipped tooth, or a
14 tooth missing if I'm not mistaken.

15 Q I'm sorry, or a what?

16 A A tooth missing if I'm not mistaken.

17 Q Okay. And, the picture that they showed you, was he
18 wearing glasses if you recall?

19 A Yes, he was wearing the black framed glasses.

20 Q Okay. Now, back on August sixth, did you have a cell
21 phone?

22 A Yes, I did.

23 Q And, do you recall what number that was?

24 A Maybe it was the 810-525-2561 number.

25 Q Okay. 810-525 --

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1 A 2561.

2 Q Okay. And, did you have any other numbers?

3 A It could have been the 248-894-4069 number.

4 Q Okay. Did you have two numbers that you used?

5 A No, I didn't. No.

6 Q Are those two numbers that you have had in the recent past
7 then?

8 A Yes.

9 Q And, tell me about when one switched to the other, did you
10 get a new provider, a new phone, what did you --

11 A No, I changed it -- what happened was is I was -- actually
12 I was trying to get clean and I changed it trying to, you
13 know, stopped people from calling and then I relapse and I
14 just changed and gave everybody my number again. So,
15 that's what happened.

16 Q So, you had one number and then you were trying to get
17 clean and you changed your number?

18 A Yep.

19 Q When you relapsed that second number --

20 A Got out there.

21 Q Okay, got it. Yeah, got it. So, let's talk about your
22 addiction. You said you were trying to get clean.

23 A Right.

24 Q Since August sixth, now we know that at some point between
25 August sixth and August 16th at least you purchased more

1 drugs?

2 A Right.

3 Q Did you try to get clean after that?

4 A Oh yeah.

5 Q And, did you -- do you recall -- have you participated in
6 any programs?

7 A I went to rehab.

8 Q Okay. Do you recall --

9 A It was Havenwick.

10 Q -- when that was?

11 A It was sometime -- either it was either October or no it
12 was November. October, November, December, somewheres
13 (sic) in there. I can't remember exactly what month.

14 Q Okay.

15 A I relapsed November so it might have been November.

16 Q Okay. So, you tried to get clean. How did you try to get
17 clean initially?

18 A It was actually being at home with my mom and then I
19 relapsed, and it was in November. I relapsed in November
20 and then I went to Havenwick, so it was in November.

21 Q And, then since coming out of Havenwick, have you relapsed
22 since then?

23 A No I haven't.

24 Q And, if you came out of Havenwick sometime in November,
25 let's talked about between November and today's date.

1 A Right.

2 Q Have you used any crack cocaine?

3 A No I haven't.

4 Q Have you used any type of drugs that you have not been
5 prescribed?

6 A No I haven't.

7 Q Have you been prescribed any medication?

8 A Yes, I have.

9 Q And, have you used prescription medication?

10 A Yes I have.

11 Q Have you used that prescription medication -- I don't want
12 to just say appropriately, have you used it in the
13 prescribed dose and frequency --

14 A The way that I'm supposed to, yes I have.

15 Q Okay. How about alcohol?

16 A I don't drink alcohol anymore actually.

17 Q And, how long has that been?

18 A That's been since the August 16th.

19 Q Okay. Now, do you recall going -- I know we talked of
20 August 16th and talking with the police. Do you recall
21 going back into the police department another time and
22 talking about phone calls and logs?

23 A Yes, I do.

24 Q Do you recall when that was?

25 A That would have been November -- in November.

1 Q So, if my information reflects November third of 2016, any
2 reason to doubt that?

3 A No.

4 Q Okay, would that have been before or after you relapsed
5 and went into rehab, if you know?

6 A Before.

7 Q Before, okay. When you went in that second time on
8 November third to speak with police, what do you recall
9 that conversation being about?

10 A The texts that set. It would have been about flat screen
11 TVs.

12 Q And, so were you made aware at that point of phone records
13 or phone texts and phone calls that had been made by -- or
14 to or from you and the defendant?

15 A Yes.

16 Q Were you shown those texts or did you just talk about
17 them?

18 A I don't recall. I don't remember.

19 Q Okay.

20 A I really don't.

21 Q Do you have a recollection of -- aside from calling and
22 ordering up the drugs, do you have a recollection of
23 exchanging phone calls with the defendant on August sixth?

24 A I do but I don't. I mean I kind of do. So, I mean I must
25 have. I have got -- I have memory problems. My mom can

1 even tell you, just some things she'd tell me that I've
2 done, I've said, that I don't remember. It's due to the
3 drugs. The drugs have made my brain mush at times. So --
4 so if I -- it's there obviously I did do it.

5 Q Okay. Now, did you have a discussion with the police at
6 that time how -- about text messages that you had sent to
7 the defendant or vice versa that make it look like you
8 were involved?

9 A Yes it -- yes.

10 Q During your conversation with the police were you made any
11 promises about we're not going to prosecute you?

12 A No.

13 Q Were you given any guarantees about whether or not you're
14 going to be prosecuted or what type of punishment you'll
15 receive or anything like that?

16 A No.

17 Q Have you and I had a number of discussions about coming
18 into court and you testifying about happened on August
19 sixth?

20 A No.

21 Q Have we talked about what happened on August sixth?

22 A Yes we have.

23 Q Have I given you -- have I told you that I'm not making
24 any promises and I don't know whether you'll be
25 prosecuted, what your punishment will be, things like

1 that?

2 A No.

3 Q Have I told you that I don't know?

4 A Yes you have.

5 Q Okay. Have I told you that I guarantee that you will not
6 be prosecuted?

7 A You haven't made no promises at all.

8 Q Ms. Weber, how certain are you that it was the defendant
9 who came in to Mr. Stites' bedroom with the gun on August
10 sixth, 2016?

11 A 100 percent sure.

12 Q How sure are you that it was the defendant who delivered
13 the drugs to Mr. Stites home that night?

14 A 100 percent sure.

15 MS. COLLINS: I have no further questions, Your
16 Honor.

17 Mr. Taylor may have some questions though.

18 THE COURT: Ms. Taylor?

19 CROSS-EXAMINATION

20 BY MR. TAYLOR:

21 Q Ms. Weber, you indicated to the prosecutor that as of
22 August sixth, 2016, you were in the throes of a crack
23 addiction, am I correct?

24 A Yes.

25 Q And, that you would go and for a year prior to that --

1 excuse me -- you had been using drugs on -- using crack
2 cocaine on a consistent basis?

3 A A year prior to me actually -- the -- what I did, no. A
4 year prior to me doing what I did I was clean. I would
5 have been doing what I did was almost a year not doing it.
6 I've only been doing it for a year. I would have been a
7 year.

8 Q A year prior to August sixth, 2016?

9 A No, it would have been a year in August if I would have
10 kept smoking.

11 Q Okay. And, you indicated to the prosecutor that you were
12 using drugs at least -- you were doing to these two, three
13 day binges using crack cocaine, am I right?

14 A Yes.

15 Q And, you also indicated one of the last things that you
16 made was that your memory had been made mush because of
17 the use of the crack cocaine?

18 A Yes and sometimes I'll remember -- little things I
19 wouldn't remember, big things I remember.

20 Q So, let's talk about some of the big things. You remember
21 August sixth, 2016, coming in contact with Mr. Ronald
22 Stites on Baldwin and Rutgers?

23 A Yes.

24 Q And, you remember just prior to that you had spent your
25 entire social security check using drugs, am I right?

1 A On that weekend, yes I did.

2 Q And -- and at the point that you were walking along
3 Baldwin and you came in contact with Mr. Stites, had you
4 smoked any drugs prior to coming in contact?

5 A I said earlier yes I smoked that day.

6 Q Earlier that day. And, as you're walking to get this
7 coffee from the 7-11 I assume that you had money -- at
8 least enough money to purchase the coffee?

9 A Yes, I did.

10 Q But, if the opportunity for you to make some more money in
11 order to buy some more drugs came along you would have
12 taken advantage of that, am I correct?

13 A Yes, I would have. My addiction it was there, it is
14 there. I'm always going to fight with my addiction,
15 that's a daily battle.

16 Q So, when you came into contact with Mr. Stites you saw an
17 opportunity to make money?

18 A Yes.

19 Q And, he indicated to you that although you remembered
20 having contact with him, he did not remember having
21 contact with you on a previous occasion?

22 A No, he didn't. He's got memory issues. Bad memory
23 issues.

24 Q And, as well as you because of the use of the crack
25 cocaine, am I correct?

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1 A Mine ain't nowhere near as bad as his.

2 Q Okay. So, you engaged in conversation with him and it's
3 your testimony on direct examination it was Mr. Stites
4 that initiated the conversation about changing money for
5 sex?

6 A Yes.

7 Q And, this was before you even got to his house?

8 A No, when -- when we got to his house.

9 Q What was the conversation like as you're walking long to
10 his house?

11 A What it was like? He asked what I was doing. He said do
12 you want to come to the house and have coffee. I said
13 sure.

14 Q On the walk there's no conversation?

15 A It was coffee on the way to his house. He asked what I
16 was doing, I said going to get a coffee. He said do you
17 want to have coffee and he said yes. It was -- that was
18 the conversation. His house is only maybe 40 steps, 50
19 steps maybe.

20 Q So, you get to the house, you sit in the living room and
21 you start to talk to Mr. Stites?

22 A Yeah, we actually -- serving him coffee before we sat
23 down.

24 Q He gives you a cup of coffee at his house. You handled
25 that cup, am I correct?

1 A Yeah, well it takes a minute to get his coffee going, but
2 yeah.

3 Q And, does he had you the remote in order to change the
4 channels?

5 A No he did it himself.

6 Q At no point in time when you were in house did you handle
7 the TV remote to change the channel?

8 A No.

9 Q So, you indicated that once you started talking about
10 having sex and you came to an agreement about what the sex
11 was going to be like and how much, am I correct?

12 A I already knew what the sex was going to be 'cause I had
13 been there prior. So, I already know what the sex was --
14 it wasn't even sex really, so.

15 Q You said the last time that you had been there had been
16 almost two years, am I correct?

17 A And, I know what he likes. I already knew what he was
18 about.

19 Q So, after two years you still believed that the only thing
20 that you were going to do at that time was have oral sex
21 with Mr. -- Mr. Stites?

22 A Yes.

23 Q And, he was going to perform that oral sex on you?

24 A Yes and he did, every time that I went there he did.

25 Q Okay. And, so you said that -- and he pulled the \$50 out

1 of his wallet?

2 A Yes he did.

3 Q And, once he gave you the \$50 you go into the bedroom and
4 you start having sex?

5 A No, I said once he pulled out the \$50 I called for the
6 crack. Actually before that I went to the store -- I went
7 and got crack and I smoked crack before I even came back
8 to his house.

9 Q Let me talk about that for a second. When you initially
10 talked to the police on August 16th, 2016, you didn't tell
11 the police initially that you had left the house and came
12 back, am I correct?

13 A I don't recall if I did or didn't.

14 Q You've indicated that you -- you initially told the police
15 basically what you just said and that you took the money
16 from his wallet and he gave you the \$50 and then you go
17 into the bedroom and you begin to have sex? Do you recall
18 telling the police that on August 16th?

19 A I don't recall if I did or didn't.

20 Q So -- and then you indicated to the police on August 16th,
21 2016, that when you go into the bedroom and start to have
22 sex that's when the person came into the room with the
23 gun, am I correct?

24 A I mentioned that we were smoking crack before I even went
25 into the room.

1 Q Okay. So, you start smoking -- that's what you told the
2 police on August 16th, 2016?

3 A August sixth that's what I told them. I told them we had
4 smoked crack. And -- and as you told the prosecutor, the
5 reason you got to the police was that they contacted you
6 first, you didn't contact the police to tell them what had
7 occurred on August sixth, 2016, with yourself and Mr.
8 Stites, am I correct?

9 A I didn't know what the cops wanted.

10 Q You just knew that there was a card left there --

11 A For me to get a hold of them, yes.

12 Q And, so you got there on August the 16th, 2016, they told
13 you hey look we're looking into this robbery that took
14 place on August the sixth?

15 A Yeah.

16 Q And, that's when you told them the story that you said?

17 A Yes.

18 Q So, your testimony here today is that after Mr. Stites
19 gave you the \$50 you left, am I correct?

20 A Yes, that's the crack I smoked in the bushes.

21 Q And, you indicated that you had purchased drugs from the
22 person you knew as K-1/Killer approximately ten times, am
23 I right?

24 A Approximately.

25 Q And, was there any other person that you primarily

1 purchase your drugs from?

2 A Not at that -- not that day in Baldwin.

3 Q I'm sorry.

4 A Not at that -- into Baldwin.

5 Q But, on the day that you left -- on the first time you
6 left Mr. Stites' home with the \$50 that he gave you and
7 you went out and purchased drugs, am I correct?

8 A Yes.

9 Q And, was that someone that you were familiar with that you
10 purchased the drugs from?

11 A K-1, yes.

12 Q When you left the house first time?

13 A Yes, K-1 is someone I was familiar with.

14 Q Did you purchase drugs from him before you went back to
15 Mr. Stites' home?

16 A Yes, I believe so.

17 Q Now, you and I have had this conversation before?

18 A Right.

19 Q And, in the last time we had this conversation did you or
20 did you not say that the person that you purchased drugs
21 from was a person that you knew -- that you know as Mark
22 or someone other than the person that was K-1 or Killer?

23 A As I think of it now it had to been K-1 because I wouldn't
24 have travelled all the way down Baldwin to the opposite
25 end of Baldwin by Oakland on foot and get back to Mr.

1 Stites' in ten minutes. There's no way it would have
2 happened. So, it had to have been K-1.

3 Q So, when you said that the last time you were not being
4 truthful the last time?

5 A I told you my memory's not correct so as I thought of it
6 had to have been K-1.

7 Q So, let's -- we're going to operate from the standpoint
8 that either your memory is faulty or that you don't
9 remember everything that took place specifically on August
10 sixth, 2016; okay? So, again, the last time -- and I'm
11 going to move on because the last time you said something
12 totally different, but this time you're saying that the
13 person who you first left that house and you went to buy
14 to these drugs and that person that you purchased the
15 drugs from was K-1 or Killer?

16 A And, I then I said it could have been a guy named Mack.

17 Q Okay.

18 A I know what I said.

19 Q Okay. So, now you get back to the house and you indicate
20 that it's Mr. Stites who says to you hey can we get some
21 drugs, let's get high, and do you know someone that you
22 can get some drugs from?

23 A He asked what I was doing. I told him I was -- I went out
24 and I had smoked. He's like can you get some crack? I
25 said yes I can get some crack.

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1 Q So, when you got back to the house you told him what you
2 had did prior to coming back?

3 A Yes, I don't lie about what I do.

4 Q Okay. So, when you get back he -- then he says can you
5 order up some drugs?

6 A Yes.

7 Q And, you pull out your cell phone and you call someone to
8 come and delivery drugs to the house?

9 A Yeah, I called K-1 for it.

10 Q And, so when he gets there you indicated that he -- you
11 let him in the house, am I right?

12 A Screen door. I -- he opened the -- I was standing at the
13 screen door. He opened the screen door and came in, yes.

14 Q And, then you said he paces back and forth but then he
15 goes into the kitchen?

16 A He goes like this in front of the -- and then he walks
17 into the kitchen. Yes.

18 Q And, you follow him in the kitchen and make the
19 transaction?

20 A I got up out of the chair and walked into the kitchen.

21 Q And, you indicated that you received more money from Mr.
22 Stites when you took money off of a dinner tray or
23 something of that nature in order to purchase these other
24 drugs?

25 A Yes, he had it sitting on a little dinner tray. I picked

1 it up before I even went into the kitchen to get the
2 drugs.

3 Q So, when you left out the first time, the \$50 that Mr.
4 Stites gave you, did you use that entire \$50 to buy the
5 drugs and smoked the drugs before you came back?

6 A Yes I did.

7 Q And, so -- and it's your testimony that Mr. Stites gave
8 you even more money --

9 A To buy the drugs to get high before we -- before we had
10 oral sex, yes.

11 Q How long does this person stay in the kitchen and this
12 transaction is made before they leave out the house?

13 A The transaction only took a few seconds. I sat back down.
14 He stood there for about five, eight minutes and then he
15 left.

16 Q And, your testimony is that he took -- you believe that he
17 took Mr. Stites' grinder and a Pyrex cup?

18 A Not that I believe it, Mr. Stites is the one that said he
19 came up missing.

20 Q He didn't take anything else? No TVs, anything of that
21 nature?

22 A No he didn't take no TV or nothing.

23 Q Okay. And, how much money did you spend with him at that
24 point?

25 A At what point? The point that he came over?

1 Q Yeah.

2 A He -- we bought a 50 or Mr. Stites paid for a 50.

3 Q Okay. So, Mr. Stites gave you \$50 that you used to buy
4 drugs the first time?

5 A Yes.

6 Q Then he gave you another \$50 to buy drugs?

7 A Yeah when he came over -- when K-1 came over, yes.

8 Q And, in reference to -- and to having sex, did he give you
9 any more money for the sex?

10 A No, 'cause K-1 came over and told me to tie him up, he
11 didn't have time to give me more money because what
12 happened took place.

13 Q So, in other words, when you gave him the first \$50 that
14 was only for -- what was that for?

15 A That was for me.

16 Q That was just for you, for nothing else? Just for your
17 company, just for you to be there?

18 A Yes.

19 Q And, then he gave you another \$50 in order to buy drugs
20 from the person who came to the house?

21 A K-1, Kristopher, Killer, whatever you want to call him.

22 Q And -- but as it relates to the sex, he had not paid you
23 for the sex yet?

24 A No.

25 Q But, when you get -- after you smoke the drugs you get

1 into the -- back into the room, in the bedroom, and he
2 begins to perform oral sex on you?

3 A Mm-hm.

4 Q Is that a yes ma'am?

5 A Yes.

6 Q And -- and although he begins to perform oral sex on you,
7 you indicated that he did not get a chance to pay you for
8 the sex --

9 A No he --

10 Q -- because the person came in the room and you jumped off
11 of him and you tied him up, am I right?

12 A Yes, he pays a little bit first and then he pays after.

13 Q And, the prosecutor asked you about text messages that you
14 had sent to a phone during the course of this night when
15 you were at Mr. Stites home, correct?

16 A Right, mm-hm. Yes.

17 THE COURT: Is that a yes?

18 THE WITNESS: Yes.

19 THE COURT: You have to say yes or no. Thank
20 you.

21 BY MR. TAYLOR:

22 Q When you initially spoke to the police on August sixth
23 2016, you didn't mention to them that you had sent text
24 messages throughout that night, am I right?

25 A No, I forgot.

1 Q And, you didn't mention to them that the context of those
2 text messages mentioned that -- that he has two TVs or
3 something of that nature, am I right?

4 A No, I didn't.

5 Q But, you don't deny that those text messages were sent, am
6 I right?

7 A No, I'm not denying it.

8 Q And, in the context of those text messages, do you recall
9 or mention -- whether you even mention a person by the
10 name of Kris or about a person named Killer or K-1 in the
11 context of those text messages?

12 A I don't understand the question.

13 Q Did you mention in the texts -- when you're texting those
14 messages out --

15 A Right.

16 Q -- do you mention K-1? Do you say hey K-1 I'm here or K-1
17 I need this? Killer I need this?

18 A Why would I mention that went it's going straight to his
19 phone?

20 Q But, you don't mention it, am I correct?

21 A No I don't. It goes to his number.

22 Q Okay. So, then you and I had another conversation about
23 this incident on September the 20th, do you remember that?
24 If I give the date you and I had this conversation before?

25 A When we had court last time?

1 Q Yes.

2 A Yes.

3 Q When we first -- when we had court at that time did you
4 mention that -- I'm talking about September 20th when we
5 were at the other court, did you mention that you made any
6 text messages about TVs or anything of that nature?

7 A No I didn't mention that.

8 Q Okay. The first time that you mentioned anything about
9 text messages was when -- when the police officers
10 actually come in November the third and you spoke to them
11 at the police station and they confronted you with those
12 text messages?

13 A Correct.

14 Q In fact that was the first time you mentioned to the
15 police that you had left Mr. Stites' home the first time
16 to buy drugs?

17 A Yes, I forgot. I told you I have a bad memory. Small
18 things I don't remember, bigger things I will remember.

19 Q And, in fact on that occasion you told them that you did
20 not remember who you bought drugs from when you left the
21 first time?

22 A No, I didn't remember. But, like I said now that I think
23 about it why would I travel all the way down Baldwin to
24 where I can go right by the party store and get them that
25 next street over. Makes a lot of sense to me.

1 Q But, you also mentioned to them, as you just stated, that
2 your mind was mush, am I right?

3 A It was mush, yes.

4 Q And, also you just -- you mentioned to the prosecutor
5 between August sixth and August 16th you were still getting
6 high, am I right?

7 A Yes, I was.

8 Q And --

9 A Off and on.

10 Q And, you indicated that after that you had at least a
11 certain time of sobriety between August 16th and November
12 2016 you had a period of sobriety?

13 A A good -- a good gap of sobriety, yes I did. I had only
14 relapsed once.

15 Q And, when you relapsed in November and that's when you
16 went and got some treatment?

17 A Yes and I've been clean ever since.

18 Q You would agree with me that, and as you often indicated,
19 that the battle was a day to day battle?

20 A Yes it is.

21 Q And, in the process of that recovery period, that sobriety
22 period that you had you were -- the addiction was still
23 somewhat strong?

24 A It gets -- it gets better every day. It's just it's a
25 battle. It's in the back of your mind regardless. It's

1 going to be there, it's never going to go away.

2 Q And -- and the battle was so strong and you even indicated
3 even on direct examination that although you left -- you
4 didn't help or assist Mr. Stites after this robbery took
5 place or after this was taken, am I right?

6 A No, like I said I was scared.

7 Q You were scared?

8 A Yes.

9 Q You grabbed your clothes and you left?

10 A Yes, 'cause I was scared. I was coming down off the
11 drugs. When a person is on crack they're -- they get
12 paranoid. So, of course, I was scared, I was paranoid, I
13 just wanted to get out of there.

14 Q Okay. You were so scared that you indicated that you got
15 a call or you made contact with the person you know as
16 Killer, excuse me, approximately two day later?

17 A Yes.

18 Q And, in the midst of making -- making this contact, the
19 person gave you -- he gave you \$400?

20 A Yeah, I used it back with him. Yes, the drugs overrode
21 the fear and that will happen.

22 Q And, so instead of you just taking the \$400, moving on,
23 going about your business, doing something else, you
24 turned right around -- back around and just gave him --
25 just handed him the \$400 back?

1 A And, used it with him.

2 Q And, you didn't use drugs with him?

3 A Of course not.

4 Q You just purchased drugs from him?

5 A Purchased drugs.

6 Q And, even after that you -- I believe you said that you
7 have had more than -- more than one contact with him after
8 August sixth?

9 A Possible.

10 Q And, each time you're -- you're -- you're desire to get
11 crack overrode your fear of anything he may have done to
12 you or anything of that nature?

13 A Yes. Crack it -- it will. If you -- if you did the drug
14 you would understand. Once you do that drug for a couple
15 days straight you lose every -- every self -- whatever you
16 have, control. The drug will take control of your life.
17 My mom knows how I -- how I was on it. I was bad. It
18 took control of my life. I didn't care about myself, I
19 didn't care about my mom. People don't understand how bad
20 it can get.

21 Q But, in reference to other than the person who was Killer,
22 you indicated that you had another primary drug dealer, am
23 I right?

24 A Yes.

25 Q And, how often would you visit that person to purchase

1 drugs?

2 A Well, when I couldn't get a hold of K-1 I would go to the
3 other one.

4 Q And, the prosecutor asked you were they any distinctive
5 features about K-1 that you knew in terms of facial hair
6 that you were familiar with?

7 A Facial hair that I was familiar with on K-1?

8 Q Yes.

9 A Well, goatee.

10 Q No full beard, just a goatee?

11 A I don't really remember at the time.

12 Q And, the other -- the other thing you -

13 A He had glasses and possibly a chipped tooth.

14 Q You said possibly?

15 A Yes.

16 Q And, this is the person that you dealt with on at least
17 ten different occasions, am I correct?

18 A Yeah, he didn't smile -- he didn't smile a lot so how can
19 you really remember, you know, if he had a chipped tooth
20 or not. I believe, yes, he did had a chipped tooth. He
21 definitely wore black framed glasses.

22 Q What about missing teeth?

23 A I said a chipped tooth or missing tooth. You can ask
24 Kelly, I just said it. You weren't listening?

25 Q I was listening but I was just trying -- not trying to be

1 argumentative with you.

2 A Well, it was the way -- either way, I said them both.

3 Q But, is that -- when you sat with Detective Mullins the
4 first time that you went in, you indicated that you
5 specifically told him that there was a person that you
6 knew as Killer or K-1, am I correct?

7 A Yes.

8 Q That was in the home with you and Mr. Stites on August
9 sixth, 2016?

10 A Yeah, it was Killer or K-1 -- Killer.

11 Q Did they ask you for any specific descriptions of this
12 person?

13 A I don't remember at the time. They asked -- they showed
14 me did he gave -- do he wear glasses? I said yes that's
15 him with the black framed glasses.

16 Q That's it? That the only --

17 A No.

18 Q They didn't ask you anything more specific?

19 A I don't recall, I'm sorry.

20 Q You don't recall whether they asked about a chipped tooth
21 or a missing tooth or anything like that?

22 A I don't recall. Yes, they could have.

23 Q What about -- what about height and weight?

24 A I don't recall.

25 Q Is part of your not recalling as you're starting -- as you

1 and I started talking you indicated that you, because of
2 the addiction, that you remember some of the big things
3 but some small things you don't remember, am I correct?

4 A Yes.

5 Q And, so this -- some of these small issues in terms of
6 what they asked you in terms of whether he had a missing
7 tooth, height, weight, things of that nature you don't
8 recall them asking you?

9 A I have a mental problem. I am mentally screwed. Okay,
10 it's not just 'cause of the drugs, it's 'cause there's
11 something wrong with my brain.

12 Q And, that clearly affects your memory, am I correct?

13 A At times, yes.

14 Q Let me ask you something about (indiscernible). When you
15 were in Mr. Stites' home after he was tied up, did you --
16 did you rummage through the house looking?

17 A No, not that I recall.

18 Q And, you don't recall mentioning about the keys -- where
19 the key to the safe was?

20 A I could have. I don't recall.

21 Q And, by mentioning that at any point in time in the
22 evening that you were in Mr. Stites' home, did you see him
23 use a key or anything of that nature to go into a safe?

24 A I didn't go in his room until after the fact we was
25 getting ready to perform our sexual act.

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Q If you didn't go in the room, how would you have known that there was a key that would have went to the safe?

A So, he -- he mentioned the key.

Q He mentioned the key?

A Yes.

Q Did he mention the safe?

A You could see the safe as soon as you go in the room.

Q And, did he mention if there was any money in the safe?

A No, he didn't mention nothing about the money in the safe.

Q Did he mention any other items of value that was in his home or could you see, other than the TVs, did you see anything else that was of value in the home?

A He had tools in there, he had -- there was miscellaneous things everywhere (sic).

Q If you had made -- you said that if the text messages are there then you made -- then you would have made the text messages? You're not denying making those --

A I already answered that question.

Q So, if you had made the text messages why would have made text messages about TVs and things of that nature inside Mr. Stites' home?

A I don't know. To get him there faster to drop the drugs off.

Q Then to the best of your knowledge, there were no TVs taken, am I correct?

1 A No, there wasn't, but that was probably to get him to drop
2 the drugs off faster 'cause a lot of drug dealers are slow
3 on bringing the drugs.

4 Q So, you think it would have made more sense if you'd had
5 mentioned the money?

6 A I didn't know there was any money in his safe so don't
7 even -- I -- go on to another question 'cause you keep
8 asking the same questions.

9 Q I'm not asking --

10 THE COURT: Excuse me. Answer -- answer the
11 question that he asked. If you can't answer it then you
12 can say that you can't answer it.

13 Go ahead Mr. Taylor.

14 BY MR. TAYLOR:

15 Q You mentioned drug dealers and you talked about habits of
16 drug dealers.

17 A Yes, I have a habit. Or, had a habit.

18 Q You said that well if you mentioned the TVs he would have
19 gotten there faster. Drug dealers are in the business of
20 making money, am I correct?

21 A Yeah they are. They like to make the money, that's for
22 sure.

23 Q So, why won't you have mentioned money as opposed to
24 mentioning a TV?

25 A 'Cause sometimes you say you got \$50 sometimes you still

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1 wait longer, if you got \$100, \$200, they like to move
2 faster.

3 MR. TAYLOR: All right. Thank you.

4 Judge, I have no further questions of this
5 witness.

6 THE COURT: Thank you.

7 Any follow up?

8 MS. COLLINS: Yes.

9 REDIRECT EXAMINATION

10 BY MS. COLLINS:

11 Q Ms. Weber you -- you talked about two drug dealers.

12 A Yes, I have.

13 Q Did you purchase drugs from just those two or were there
14 other drug dealers that you would purchase from?

15 A Before I met -- his name was Mack and before I ran into K-
16 1 and met K-1. There used to be more but they were the
17 two with the best dope around. So, yes there was only
18 those two.

19 Q Okay. So, Mack and Killer or K-1, those are two different
20 people. Those are the people that you would purchase --
21 well let me ask you around -- on August sixth, 2016, at
22 that time were there others besides those two that you
23 would purchase from?

24 A No there wasn't.

25 Q Okay. Explain to me what the difference is between the

1 locations of Mack and the defendant.

2 A Okay. Mack lived more down by Howard Street on Oakland
3 Avenue which would be further down. I would seem to think
4 it would be going north. And, it would be down towards
5 Oakland. I think it was north.

6 Q And, when you say north or down towards --

7 A It's further towards -- I'd say Montcalm area.

8 Q It is further away or closer to Mr. Stites' home?

9 A Further, further, way further.

10 Q Okay.

11 A And, K-1 would have been closer, way closer, two streets
12 away. If he'd -- it would actually be two streets away
13 from Mr. Stites.

14 Q When you went in and spoke with the police initially on
15 that August 16th date, did you tell the police that you --
16 when you went to the 7-11 or when you went to the store
17 and purchased drugs, and I apologize, do you recall which
18 store you went to to purchase the drugs?

19 A At -- no I don't -- no I don't think I recall. No, I
20 don't.

21 Q 'Cause I don't want to --

22 A No, I don't recall.

23 Q Okay. So, when you went to the store that first time you
24 left Mr. Stites' home and went to get something to drink
25 but ended up purchasing drugs, did you tell the police

1 that you couldn't recall who you purchased the drugs from?

2 A Yes, I did.

3 Q What is it now that makes you think and testify today that
4 it was in fact the defendant rather than anybody else?

5 A Because it would make -- makes more sense that it would
6 have been actually K-1 because it was a lot closer to
7 where I was going to Mr. Stites' than it would be all the
8 way down Baldwin, you know, further -- a lot further away.

9 Q Did you have a vehicle at that time?

10 A No.

11 Q When you first met up with Mr. Stites that night, do you
12 know what time it was?

13 A Roughly between I'd say maybe 11:00, 12:00 and 2:00, maybe
14 possibly, somewhere (sic) in them areas.

15 Q Okay. So, are you referencing it would be 11:00 p.m.?

16 A Yes.

17 Q To 2:00 a.m.?

18 A Yes.

19 Q And, so if it was 11:00 p.m., and I've been referring to
20 August sixth, would that be August fifth and then into
21 August sixth?

22 A Yes, ma'am.

23 MS. COLLINS: I have no further questions.

24 THE COURT: Anything else Mr. Taylor?

25 RECROSS-EXAMINATION

1 BY MR. TAYLOR:

2 Q You just mentioned to Ms. Collins that Mack and Killer
3 have been your two primary drug -- drug dealers, am I
4 correct?

5 A Yes.

6 Q And, you said that -- is there a difference physically
7 between the two? Is there physical features different?

8 A Yes, they're -- yes definitely.

9 Q But, they're both African American males, am I correct?

10 A Yes, they are.

11 Q And, the -- the person Mack, did -- did you have a
12 preference as to who you purchased your drugs from?

13 A They both had good dope, so no I had no preference.

14 Q You had no preference because of the quality of the drugs
15 that they had?

16 A Correct.

17 Q And, I'm assuming that their prices were similar?

18 A Yes.

19 Q And, you -- when you would get in contact with them would
20 it be by the same method, would it be my cell phone?

21 A Yes.

22 Q So, if you were to contact Mack you would call him or text
23 him --

24 A I didn't like texting too often so it would be calling.

25 Q So, you would call. And, when you met up with him, would

1 it be at the same location?

2 A No, I just told Kelly no. It's not the same location.

3 Q Okay. So, when you met up with the person you know as K-1
4 Killer would it always be in the same location?

5 A Most of the time.

6 Q Most of the time. Would you say that you dealt with him
7 on a majority -- at least over ten occasions but it would
8 always be in the same location?

9 A I didn't say always, I said most of the time.

10 Q You were -- you didn't have a vehicle, am I right?

11 A No.

12 Q And, so you were -- you would walk to where ever you need
13 to or --

14 A Or, I'd have somebody -- or I'd have somebody take me.

15 Q Or, they would come and met you?

16 A Yes.

17 MR. TAYLOR: All right. Thank you. No further
18 questions.

19 THE COURT: Are we done?

20 MS. COLLINS: If I can just clarify that I
21 understood correctly.

22 REDIRECT EXAMINATION

23 BY MS. COLLINS:

24 Q When Mr. Taylor asked you if you always met up with the
25 person at the same place, Mack when you would purchase

1 drugs from Mack would you -- would you met him at the same
2 place usually or the same area to -- to deal -- to
3 purchase the drugs?

4 A I'd go straight to the house.

5 Q Okay. And, when you met up with the defendant to purchase
6 drugs, would it be in the same area?

7 A Majority of the time it would be at the house or I would
8 get -- had to be taken over to one or two different
9 places, yes.

10 Q Okay.

11 A But, Mack's would be pascifically (sic) at his house.

12 Q So, did you ever met Mack to by drugs at the same place
13 that you had on another occasion met up with the
14 defendant?

15 A Oh, no, no. No.

16 Q Okay. And, I know that you were asked whether or not
17 they're both black males.

18 A Yes, they are.

19 Q Would you recognize Mack if you saw him again?

20 A Yes.

21 Q Would you recognize K-1 or Killer when you saw him again?

22 A Yes, I would.

23 Q You yourself, would you ever get them confused?

24 A Oh no.

25 MS. COLLINS: I have no further questions.

1 MR. TAYLOR: If I could just ask one more
2 question then.

3 THE COURT: Sure.

4 RECROSS-EXAMINATION

5 BY MR. TAYLOR:

6 Q When -- when you left to buy the drugs the first time when
7 you left Mr. Stites' home, the person that you purchased
8 the drugs from, did you call them or did you just happened
9 to bump into them?

10 A Actually I think I just went there.

11 Q You went straight to the place where you thought they
12 would be?

13 A Yes.

14 Q And, there was no calls or no text messages or nothing?

15 A Nope, I just went there.

16 MR. TAYLOR: Thank you. No further questions.

17 MS. COLLINS: I have no further questions, Your
18 Honor.

19 THE COURT: You can step down.

20 MS. COLLINS: And, may Ms. Weber be excused?

21 MR. TAYLOR: I have no objection at this time.

22 THE COURT: Okay, thank you.

23 (At 12:08 p.m., witness excused.)

24 THE COURT: Ladies and gentlemen, we're going to
25 take our break for lunch. I'm going to ask that everyone

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1 return back at 1:15 to the jury room. I'm going to ask
2 that you take your notepads with you. The clerks will
3 collect them for you in the back -- or from you in the
4 back.

5 I'm going to remind you not to talk about the
6 case, not to start talking about the case obviously until
7 you start deliberating. So, don't talk about the case.
8 Please don't research anything, please don't look up
9 anything. Obviously you can use your phones to make phone
10 calls but don't talk about the case and don't look up
11 anything regarding the case.

12 I'll see you back in a little bit, over an hour.
13 Thank you.

14 THE CLERK: All rise for the jury.

15 (At 12:09 p.m., jury exited courtroom.)

16 THE COURT: Okay. Please be seated.

17 Just a quick look, and I haven't looked in
18 detail at the jury instructions which we've done a few
19 times now. If you could, as to 4.05 decide which
20 paragraph and fix that instruction, as to -- that's he
21 prior inconsistent statement, 4.05.

22 5.05, at the end of paragraph three, is there
23 anything additional or should that just be a period?

24 MR. TAYLOR: I'm sorry did you say --

25 THE COURT: 5.05, the end of paragraph three.

1 The last paragraph.

2 MS. COLLINS: Well, that's the end but the colon
3 references the 5.06 when you tell them how they should
4 examine it. So, however the Court --

5 THE COURT: Okay, that's fine. We can leave it
6 that way then. I just wanted to make sure there wasn't
7 anything else additional.

8 MS. COLLINS: No, there's nothing else
9 additional.

10 THE COURT: And, then Ms. Collins if my memory
11 serves me correctly you have testimony from a deputy who's
12 going to be testifying as an expert. That needs to be
13 included if you're going to be seeking to qualify him.

14 MS. COLLINS: Okay, yes.

15 THE COURT: So -- and I don't have that
16 instruction in this packet.

17 MS. COLLINS: Okay. I'll make sure you have that
18 if we qualify him.

19 THE COURT: And, then just go over those
20 instructions again, the two of you, so that we can make
21 sure if there's anything additional that needs to be
22 amended, added, or deleted.

23 Anything further?

24 MR. TAYLOR: Nothing further at this time.

25 MS. COLLINS: Nothing from the People.

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1 THE COURT: Okay. We'll start back up at 1:15.

2 MS. COLLINS: Thank you.

3 THE CLERK: All rise.

4 (At 12:11 p.m., proceeding recessed.)

5 (At 1:22 p.m., proceeding reconvened.)

6 THE CLERK: All rise.

7 THE COURT: Please be seated.

8 THE CLERK: Now calling People v Kristopher
9 Hughes, case number 16-260154-FC.

10 MS. COLLINS: Kelly Collins appearing on behalf
11 of the People.

12 MR. TAYLOR: Richard Taylor on behalf of the
13 defendant Mr. Kristopher Hughes.

14 THE COURT: Thank you.

15 So, our missing juror from this morning, juror
16 number two in seat number two arrived back today at a
17 little after 1:00. So, I just had a discussion with her
18 and sent her back to the jury office. She's going to be
19 put in another pool whether that's today or some other
20 pool in the future. Just FYI.

21 So, when she did come in she went straight to --
22 we were buzzing people in, obviously being mindful of Mr.
23 Hughes being -- so we had some jurors waiting outside
24 while Mr. Hughes was being let into the courtroom. And,
25 before that I think she came in and just went straight

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1 into the jury room. And, so we obviously took her out of
2 there. But, there aren't any indications or any issues of
3 -- I don't -- nobody has -- I don't think they started
4 talking to her or anything like that or talked to her
5 about the case. So, there was never -- there was never
6 any indication of that and she was only in there for I
7 don't know a minute maybe. The only reason it was that
8 long is because he was coming down the hallway and we
9 didn't want to pull her at he was coming down the hallway.
10 So, FYI that's what happened.

11 All right. Are we ready for the jury?

12 MR. TAYLOR: Yes, Your Honor.

13 MS. COLLINS: Yes, Your Honor.

14 THE COURT: Okay.

15 THE CLERK: All rise for the jury.

16 (At 1:24 p.m., jury entered courtroom.)

17 THE COURT: Please be seated.

18 Ms. Collins, your next witness please.

19 MS. COLLINS: Yes, Your Honor. The People call
20 Deputy Che McNeary to the stand.

21 THE CLERK: Please step in the witness box and
22 raise your right hand.

23 Do you swear or affirm that the testimony you're
24 about to give is the truth and nothing but the truth?

25 MR. McNEARY: I do.

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1 THE COURT: Thank you, sir. Please have a seat.

2 MS. COLLINS: Good afternoon.

3 THE WITNESS: Good afternoon.

4 MS. COLLINS: Could I please have you state your
5 full name and spell both your first and last name for the
6 record.

7 THE WITNESS: It's Deputy Che McNeary. C-H-E.
8 M-C-N-E-A-R-Y.

9 CHE McNEARY

10 called at 1:24 p.m., by the People and sworn by the clerk
11 testified:

12 DIRECT EXAMINATION

13 BY MS. COLLINS:

14 Q And, you introduced yourself as deputy, where are you
15 employed?

16 A Oakland County Sheriff's Office.

17 Q And, your job title is deputy?

18 A Yes.

19 Q Sheriff's deputy?

20 A Yes.

21 Q Were you employed as an Oakland County Sheriff's Deputy
22 back on the date of August sixth of 2016?

23 A Yes, I was.

24 Q How long have you been in law enforcement?

25 A Since 1998.

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1 Q And, has that entire time been with the Oakland County
2 Sheriff's Office?

3 A No.

4 Q Where else have you worked?

5 A Pontiac Police Department.

6 Q Okay, as a police officer?

7 A Yes.

8 Q Back on August sixth of 2016, were you assigned as a road
9 patrol deputy?

10 A Yes, I was.

11 Q And, were you dispatched to an address at 17 West Rutgers?

12 A Yes.

13 Q Is that here in the City of Pontiac?

14 A Yes it is.

15 Q That's also in Oakland County?

16 A Yes.

17 Q When a deputy is dispatched, how is it that you receive
18 information about where you're to go and why?

19 A On the radio.

20 Q Okay. And, in your patrol car in addition to -- is that
21 an audio radio where you hear it over audio?

22 A Yes it is.

23 Q Do you also have some sort of written screen in your car
24 that information comes over?

25 A Yes.

1 Q And, where is that located?

2 A It's in our car in the center consul.

3 Q So, when a person calls 911 and the officer or deputy gets
4 dispatched, the information that is relayed to the
5 dispatcher, is that also relayed to you as the deputy
6 that's responding?

7 A Yes.

8 Q When you responded to 17 West Rutgers, who or what did you
9 encounter?

10 A I encountered a Mr. Stites.

11 Q Okay. And, had you met Mr. Stites before this occasion?

12 A No.

13 Q And, did you have an opportunity to speak with him about
14 what had occurred at this home?

15 A Yes I did.

16 Q So, when you arrived there did you at least have some
17 basic information or whatever information they relayed to
18 you from the 911 call?

19 A Yes.

20 Q And, then you were able to speak with Mr. Stites about
21 anything in addition?

22 A Correct.

23 Q While you were at his home did you take note of -- was
24 this a large home that we're talking about?

25 A No, it's a very small house.

1 Q Okay. And, when you got to the residence were things
2 pointed out to you by Mr. Stites or maybe you saw them on
3 your own that were relevant to you as it relates to the
4 information that he was giving you?

5 A He pointed some things out to me.

6 Q Do you recall what those items or objects were?

7 A He pointed out a white rope that was in the living room in
8 front of the front door, a remote control that was in the
9 living room on the table, and a coffee cup that was in the
10 bedroom.

11 Q And, outside of the home we've talked prior to you coming
12 in, we've talked about an owner's manual to a safe.

13 A Correct.

14 Q Did you see that when you arrived?

15 A When I first arrived no I didn't see that in the yard. I
16 was focused on talking to Mr. Stites.

17 Q Okay. But, at some point was your attention drawn to the
18 owner's manual whether Mr. Stites directed your attention
19 over there or whether you saw it on your own?

20 A Yes.

21 Q The items that you mentioned, the rope, the coffee cup,
22 the owner's manual, and the remote control, were those
23 seized or removed from his home that day by you?

24 A Yes they were.

25 Q Did you also have an opportunity to take photographs of

1 those items?

2 A Yes.

3 Q Okay. Now, we've talked about some of those photographs
4 but I just want to make sure we're talking about the same
5 things.

6 MS. COLLINS: So, if I may approach the witness?

7 BY MS. COLLINS:

8 Q I'm showing you what's already been admitted as People's
9 exhibit number one. I'd ask you to take a look at that
10 and do you recognize the evidence that's show in that
11 photograph?

12 A Yes.

13 Q And, what is shown?

14 A It's the remote control, the owner's manual to the safe,
15 and the coffee cup.

16 Q Okay. And, those items you photographed -- you took that
17 photograph?

18 A Yes, I did.

19 Q And, then you removed them from the home?

20 A Yes.

21 Q Why did you remove them from the home?

22 A To place them in evidence.

23 Q And, I'm showing you what's previously been admitted as
24 People's exhibit number two and ask you to take a look at
25 that photograph and tell me what you see in that

1 photograph?

2 A I see a white rope that was in front of the -- it was in
3 the living room in front of the front door.

4 Q Okay. And, is that a photograph that you took?

5 A Yes.

6 Q So, is that how you found the rope when you entered the
7 home?

8 A Yes.

9 Q Did you actually seize that rope as well?

10 A Yes I did.

11 Q And, I'm showing you what's been marked as People's
12 proposed exhibit number three. I'd ask you to take a look
13 at that and tell me if you recognize that item.

14 A Yes I do.

15 Q And, what is that item?

16 A It's the rope that I collected from the house.

17 Q Now, how can you tell that that particular rope is the one
18 that you collected from Mr. Stites' home on August sixth?

19 A Well, when we tag property we have to heat seal and place
20 our initials and badge number across the seal
21 (indiscernible).

22 Q And, you said something, is there a tag on that other than
23 the exhibit sticker?

24 A Yes, you do have a tag number here and this is the
25 property item number right here.

1 Q Okay. And, so that --

2 A That's how they keep track of the property in the property
3 room, everything is stamped.

4 Q Does that accurately reflect the rope and the state it was
5 in -- I mean I know it's packaged now but does that
6 accurately reflect the rope as you seized it from Mr.
7 Stites' home on August sixth?

8 A Yes.

9 MS. COLLINS: Your Honor, at this time the People
10 move to admit People's proposed exhibit number three.

11 MR. TAYLOR: No objection, Your Honor.

12 THE COURT: It will be admitted.

13 (At 1:30 p.m., People's exhibit three is
14 admitted in to evidence.)

15 BY MS. COLLINS:

16 Q I'm showing you what's previously been admitted as
17 People's exhibit number eight. I'd ask you to take a look
18 at that and tell me if you recognize that item.

19 A Yes, I do.

20 Q What is that item?

21 A This is the owner's manual to the safe.

22 Q Okay. So, you yourself -- that's -- that's what it looked
23 like when you found it and took it from Mr. Stites' home?

24 A Correct.

25 Q Thank you. Now, you didn't actually have an opportunity

1 to see the safe, correct?

2 A Correct.

3 Q You didn't find that on -- at his home?

4 A (Indiscernible).

5 Q Did you speak with him about the person or persons
6 involved in this incident?

7 A Yes.

8 Q Did he provide you with a description either at the scene
9 or as it relates to the information that you received from
10 the 911 dispatcher?

11 A He did provide information at the scene, correct.

12 Q Okay. And, do you recall what information he provided?
13 Did he tell you how many people were involved?

14 A There was two.

15 Q Okay.

16 A White female, black male.

17 Q Okay. And, was he able to provide you with any type of
18 description of the white female?

19 A He said she was 5'4", 120 pounds, long blonde hair or
20 brown hair.

21 Q And, how about the male?

22 A Black male, wearing pants and (indiscernible).

23 Q Did he tell you about the events of that evening when you
24 were there?

25 A Yes. Yes he did.

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1 Q And, did he relate whether or not he had seen the man --
2 well did he talk to you about a man with a gun?

3 A Yes he did.

4 Q Did he provide information to you about whether or not
5 that man had been to his house earlier in the evening
6 without a gun?

7 A Yes.

8 Q What did he tell you about that?

9 A He stated that he showed up with some crack and gave it to
10 the white female, then he left.

11 Q And, what did he say about the man that returned with the
12 gun, that had the gun that night?

13 A That it was same guy that was at the house earlier.

14 MS. COLLINS: Your Honor, I have no further
15 questions.

16 Mr. Taylor may have some questions though.

17 THE COURT: Thank you.

18 Mr. Taylor?

19 CROSS-EXAMINATION

20 BY MR. TAYLOR:

21 Q Deputy McNeary, you were the first officer that responded
22 to 17 West Rutgers, am I right?

23 A Correct.

24 Q And, after you received a dispatch how long did it take
25 you to get to the home?

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1 A I was dispatched at 3:12, I arrived at 3:21 in the
2 morning, sorry. The a.m.

3 Q And, were there any other officers that responded to the
4 scene?

5 A No.

6 Q Is that protocol or was it -- you were able to secure the
7 area yourself?

8 A I was able to secure the area myself.

9 Q And, as you were securing the area you found the coffee
10 cup inside the bedroom, am I correct?

11 A Correct.

12 Q The rope was in the middle of the hallway?

13 A It was actually right inside the -- when you walk into the
14 house, the front door, it was sitting right in the living
15 room floor just inside the -- the front doorway there.

16 Q Where was the remote control?

17 A The remote control was in the living room on the little --
18 the nightstand or table in the room there.

19 Q Do you know if any of those items were submitted for
20 fingerprint?

21 A Yes.

22 Q Which ones, I'm sorry.

23 A The remote control and the coffee cup.

24 Q And, you -- prior to leaving the scene you took an oral
25 statement from Mr. -- Mr. Stites and you codified that in

1 your report, am I correct?

2 A Yes.

3 Q And, do you recall him indicating that the female had came
4 to the house in order for sex?

5 A Yes.

6 Q And, do you recall him stating to you that the female had
7 gotten \$50 from him and then had left the home?

8 A Yes.

9 Q Did he tell you that the female came back to the home?

10 A Yes.

11 Q Was he surprised that she came back?

12 A Yes.

13 Q Did he indicate that he engaged in smoking crack cocaine
14 with the female?

15 A He stated that she was blowing smoke -- she was inhaling
16 the crack and blowing the smoke into his mouth.

17 Q And, this was after she left and came back, am I right?

18 A Correct.

19 Q Did he indicate that eventually he and female went into
20 the bedroom and engaged in sex after they smoked the
21 drugs?

22 A I don't think they ever had sex. I can review my report
23 to see but I'm not sure if they actually engaged in sex or
24 not that day.

25 Q He did indicate that he was in the bedroom and then that's

1 when someone -- someone else came in the bedroom?

2 A Correct.

3 Q But, he also indicated before that person came into the
4 bedroom that the female left out of the room first and
5 then came back?

6 A Correct.

7 Q And, then that's when he noticed -- once she came back
8 into the room that's when he noticed the black male inside
9 the bedroom?

10 A Yes.

11 Q Did he indicate to you that he observed both the female
12 and the male going through his room and his property?

13 A Yes.

14 Q And, he indicated to you it was the female who tied him
15 up, am I correct?

16 A Correct.

17 Q The female did not provide him any assistance once the
18 black male left the home? Did he indicate that to you?

19 A As far as -- as far as what?

20 Q Did she -- did she help untie him or anything of that
21 nature?

22 A No.

23 Q And, again, when you got into the area you saw no one that
24 you believed that was involved in this incident other than
25 Mr. Stites?

1 A Correct.

2 Q And, have you had any -- did you have any other
3 investigatory contact with this case after you left the
4 scene?

5 A No I did not.

6 Q And, you collected the information and the evidence and
7 turned it over to you evidence tech or to the evidence
8 room?

9 A Correct.

10 Q Did you have the opportunity to rely your information to
11 any detective that was --

12 A Just the initial report that I wrote and submitted was
13 (indiscernible).

14 Q You just forwarded it to them and they do what they do at
15 that point?

16 A Correct.

17 MR. TAYLOR: All right, thank you. No further
18 questions.

19 THE COURT: Ms. Collins, anything else?

20 MS. COLLINS: I have no questions, Your Honor.

21 THE COURT: Thank you, sir. Watch your step.
22 May he be excused?

23 MR. TAYLOR: I have no objection, Your Honor.

24 (At 1:37 p.m., witness excused.)

25 MS. COLLINS: Your Honor, the People next call

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Lieutenant Troy.

THE CLERK: Please step in the witness box and raise your right hand.

Do you swear or affirm that the testimony you're about to give is the truth and nothing but the truth?

MR. TROY: I do.

MS. COLLINS: Good afternoon.

THE WITNESS: Good afternoon.

MS. COLLINS: Could you state your full name and spell both your first and last name for the record?

THE WITNESS: Steven Michael Troy. S-T-E-V-E-N. Last name, T-R-O-Y.

STEVEN TROY

called at 1:37 p.m., by the People and sworn by the clerk testified:

DIRECT EXAMINATION

BY MS. COLLINS:

Q Where are you employed?

A Oakland County Sheriff's Department.

Q What capacity?

A Lieutenant in charge of the Detective Bureau.

Q And, how long have you been in law enforcement?

A Twenty-six years.

Q Has that always been with the Oakland County Sheriff's Office?

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1 A The first 20 are with Pontiac and the last six have been
2 Oakland.

3 Q And, when you say Pontiac, Pontiac Police Department?

4 A Yes.

5 Q And, now Oakland County Sheriff's Office covers Pontiac,
6 correct?

7 A Yes. We transitioned (indiscernible), we went into
8 receivership so.

9 Q Okay. As a lieutenant was is your role in criminal
10 investigations usually on a day to day basis?

11 A Well, normally on a day to day basis I assign the cases
12 from the night before and once and a while I'll help out
13 the detectives with interviews or whatever they need if
14 that week is very busy.

15 Q Were you involved in any capacity in an investigation
16 related to an armed robbery that had occurred at 17 West
17 Rutgers in the City of Pontiac?

18 A I was.

19 Q And, were you familiar at least by name with someone named
20 Ronald Stites as the complainant?

21 A I was.

22 Q As -- as part of the investigation are you provided with
23 information or reports as it comes in about what
24 information has been learned throughout the course of the
25 investigation?

1 A Yes.

2 Q So, let's talk about the information that was provided by
3 Mr. Stites at the outset of the investigation. Were you
4 aware that he had talked about having a prostitute at his
5 home?

6 A Yes.

7 Q And, a description of that prostitute was given?

8 A Yes.

9 Q What, if anything, did you do -- well strike that. Let me
10 ask you this. Were there items of -- to your knowledge,
11 were there items that were taken from the complainant's
12 home, Mr. Stites' home that were then turned over for
13 fingerprint analysis?

14 A Yes.

15 Q Okay. While that's going on are you just sitting, or you
16 and your detectives, just sitting on your hands and not
17 doing anything or are you proactively seeking out to see
18 if you can find suspects?

19 A At that time we were checking the area for -- for current
20 prostitutes.

21 Q Okay. And, that was based on the description and the
22 information that was provided by Mr. Stites?

23 A Yes.

24 Q In the course of doing that, how did you go about trying
25 to reach out to known prostitutes in the area?

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1 A Just hitting the streets, driving around, talking to
2 people. Just picking them up one by one that -- who fit
3 the description.

4 Q Okay. Was one such person a Lisa Weber?

5 A Yes.

6 Q And, I don't know if you were the person but was a
7 business card from the Oakland County Sheriff's Office
8 left at a residence known to be frequented by Ms. Weber,
9 specifically her mother's home?

10 A Yes, that was left by Detective Mullins.

11 Q Okay. And, as a result of that at some point did Ms.
12 Weber come into the police department and speak with you
13 and Detective Mullins?

14 A She did.

15 Q Now, if my report indicates -- or your report indicates I
16 believe August 16th, 2016, any reason to doubt that?

17 A That's correct.

18 Q When she came in what did you -- with regard to the
19 incident on August sixth, what information did you have at
20 that point?

21 A Just the information that Mr. Stites initially gave us and
22 that she was possibly involved, whoever was at the house
23 was possibly involved.

24 Q Okay. And, at that point did you -- did you have any
25 knowledge that Mr. Stites had been shown photo arrays of

1 females with regard to potential suspects as the
2 prostitute?

3 A Yes he was.

4 Q Okay. And, fair to say there was not a solid
5 identification of a person from those photographs?

6 A That's correct.

7 Q Was there though information that certain people looked
8 familiar or did you have that information?

9 A Some looked familiar and then we got -- then our Crime
10 Stopper tips that come to the Sheriff's Department with
11 Ms. Weber's name on it.

12 Q Okay. So, when you sat down to speak with Ms. Weber, did
13 she provide you with any information as it related to the
14 events of August sixth, 2016?

15 A She did.

16 Q And, what information do you recall she provided to you?

17 A She stated that she knew -- excuse me -- knew Mr. Stites
18 from previous contact with him. That particular night of
19 the robbery she met him at the local 7-11 which is a few
20 blocks from his house on Baldwin. And, they negotiated a
21 price for sex and then they went back to her -- his house.
22 And, prior to having sex they decided to order up some
23 crack cocaine.

24 Q Now, when you mention the 7-11 I know you said it's on
25 Baldwin, would that be the 7-11 on Baldwin and Columbia?

1 A That's correct.

2 Q Okay. And, did Ms. Weber talk to you about ordering up
3 the crack cocaine and whether or not they were able to get
4 that crack cocaine?

5 A They did order it up. She called the guy that she knows
6 who she deals with is nickname of Killer.

7 Q Now, who provided you the nickname of Killer?

8 A Ms. Weber.

9 Q Okay. And, what did she tell you about that?

10 A She ordered \$50 worth and this Killer brought it to Mr.
11 Stites' residence.

12 Q Okay. Did she indicate to you whether thereafter he --
13 the drug dealer left or this Killer left?

14 A She said after Mr. Stites -- he actually purchased the
15 drugs, they smoked it, and then she claims the two of them
16 went into the bedroom and she wasn't sure if Killer had
17 left or if he was still there.

18 Q Okay. Now, in your discussion with Ms. Weber, did -- was
19 there discussion about Killer or who Killer was or
20 description, anything like that, that you can recall?

21 A She only knew his name. She didn't know his real name and
22 through my years myself Sergeant Hunt who I hired on with
23 me, we have a a/k/a list, possible known as.

24 Q Okay.

25 A So, I went to that list and there was a nickname of Killer

1 which came back to Kristopher Hughes and the Kristopher
2 was spelled with a K instead of C.

3 Q Okay. And, let me ask you this. In addition to whatever
4 Lisa Weber was providing to you with regard to the
5 nickname Killer, did you also have any description that
6 had been provided either to the 911 operator or to the
7 responding deputy that Mr. Stites had provided with regard
8 to this male?

9 A Somewhat; height, weight, race.

10 Q Were any of those parameters used when you consulted your
11 a/k/a list?

12 A I did.

13 Q Do you recall whether the nickname K-1 came up in the
14 discussion with Lisa Weber? K-1 and/or Killer?

15 A It was only Killer.

16 Q Okay. And, so what -- did you find -- you said that you
17 found someone that had an also known as as Killer?

18 A Yes.

19 Q And, that was Kristopher Hughes?

20 A Yes.

21 Q You said that Kristopher is spelled with a K?

22 A Yes.

23 Q And, what, if anything, did you do once you located that
24 person's identity?

25 A She said she knew who he was and that she didn't know his

1 real -- his first name. I showed her a photograph and
2 asked her is this Killer and she said yes.

3 Q So, let me ask you this. Just from, I don't know, looking
4 at TV, watching TV, being in court, is there a different -
5 - why is it that sometimes you show people an array of
6 photographs like a, you know, six or eight or 12 or
7 whatever but you only showed her one on this occasion?

8 A Because she knows who Killer is, she just doesn't know his
9 real name so you can show a photograph. Now, if she had
10 no idea who she -- who he was at all we'd put him in a
11 six-pack line up with six other individuals and see if she
12 could pick him out.

13 Q Okay, okay. And, when you showed her the picture, what
14 did you ask her?

15 A If she knew him.

16 Q Okay. And, how did she respond?

17 A Yes, that's him.

18 Q Okay. And, so at that point what happened?

19 A We finished up our interview and then turned that
20 information over to Detective Mullins (indiscernible).

21 Q Okay. Now, at this point when you're talking with Ms.
22 Weber, I know that there's these other items that have
23 been submitted for fingerprints, it is fair to say you
24 don't have the fingerprint analysis back at that point?

25 A That's correct.

1 Q So, you're speaking with Lisa Weber, does she acknowledge
2 that she in fact was the female that was with Mr. Stites
3 on August sixth?

4 A She did.

5 Q Okay. At some point do you get a fingerprint analysis or
6 a lab report late August?

7 A We did.

8 Q And, did that corroborate if you will, were there
9 fingerprints that were identified on the coffee cup and on
10 the remote control as being that of Lisa Weber's?

11 A Yes.

12 Q But, at that point once you got the report back you had
13 already made contact and found the female part to that
14 equation, correct?

15 A That's correct.

16 Q Now, did there come a point where you had an opportunity
17 to speak with Ms. Weber after that, specifically I believe
18 it was November third of 2016, after receiving certain
19 information from a forensic analysis of a cell phone?

20 A Yes.

21 Q And, what additional information did you have at that
22 point that you hadn't had on August third when you first
23 met with Lisa Weber?

24 A Just that she had had contact with him that night via the
25 telephone talking about a TV or something.

1 Q Okay, okay. And, so did you discuss with Ms. Weber the
2 content of the text messages and what it looked like with
3 regard to her involvement or lack thereof in this
4 incident?

5 A Yes, myself and Detective Mullins.

6 Q Did Ms. Weber at that time give you additional information
7 about some of the facts surrounding her involvement or
8 some of the additional details on August sixth?

9 A Just that she had contact with, you know, him prior and
10 she had been smoking crack so she kind of remembered it
11 but didn't remember but she does remember talking about
12 TVs or something.

13 Q Okay, okay. Did she deny sending those text messages or
14 making the calls that were at issue when you talked with
15 her?

16 A Not at all.

17 Q Did she deny being involved in the armed robbery?

18 A Yes.

19 Q The person whose picture you showed -- well are you
20 familiar with Kristopher Hughes?

21 A I am.

22 Q And, if you saw Kristopher Hughes again would you
23 recognize him?

24 A Yes.

25 Q Do you see Kristopher Hughes in the courtroom today?

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1 A Yes. Sitting to my left with the white shirt on and
2 glasses.

3 MS. COLLINS: Your Honor, may the record reflect
4 that the witness has identified the defendant in this
5 matter Kristopher Hughes.

6 THE COURT: It will.

7 BY MS. COLLINS:

8 Q Was the picture that you showed to Lisa Weber a picture of
9 this defendant?

10 A Yes.

11 MS. COLLINS: I have no further questions.

12 THE COURT: Mr. Taylor?

13 CROSS-EXAMINATION

14 BY MR. TAYLOR:

15 Q Lieutenant Troy, you indicated that based on your
16 scheduling if an incident took place the night before you
17 would have received the information in order to do further
18 investigation, am I correct?

19 A It depends if it's during the weekend, you know what I'm
20 saying. A lot of times if it happens on a Saturday I'll
21 come in on Sunday and not give it till Monday unless they
22 call us (indiscernible).

23 Q If I'm not mistaken, 'cause I went back to check, August
24 the sixth was a Friday night. So, if the seventh -- the
25 seventh would have been the Saturday. So, would you have

1 been in that day and the matter would have been assigned
2 to you?

3 A I know we were -- that was a busy week and I think we had
4 a shooting, but I don't know how it got into the reports
5 right away but I know I got to that report it was either
6 Monday or it could have been Sunday.

7 Q You indicated that some of the information that was
8 provided to you was by -- given to you by the officer that
9 responded, am I correct? Deputy McNeary, am I correct?

10 A That's correct.

11 Q And, also there's a mechanism you call -- I believe you
12 mentioned Crime Stopper or something of that nature?

13 A Yeah, the Sheriff's Department has like a -- they can take
14 tips, it's not Crime Stoppers but it's like a tip line
15 they can -- I guess it is. They call dispatch and
16 dispatch fills out like a log sheet and they send it to us
17 with possible responsible or just a name that somebody
18 could be involved.

19 Q I'm going to show you that document. Is that a document
20 you were making reference to when someone calls in a tip
21 to the Oakland County Sheriff's Department?

22 A It's -- it's one of them, yes.

23 Q Now, that particular document that you have in your hand,
24 is the tip in reference to the incident that took place on
25 -- at 17 West Rutgers, am I correct?

1 A I believe so, yes.

2 Q And, it -- and it mentions a name. What name does it
3 mention?

4 A Lisa Weber.

5 Q And, it gives more detail about her as far as where she
6 resides or possibly resides, am I correct?

7 A That correct.

8 Q And, the tips say, at the top of it, the general
9 description is -- what does it say is the general
10 description of the tip?

11 A You're talking about the narrative part?

12 Q Yes.

13 A That Friday night?

14 Q Yes.

15 A You want me to read it out?

16 Q Yes (indiscernible).

17 A Friday night a male was robbed by a prostitute on Baldwin.
18 Female Lisa Weber was in the area at the time. Female is
19 a known drug addict.

20 MR. TAYLOR: May I approach again, Your Honor?

21 THE COURT: Yes.

22 BY MR. TAYLOR:

23 Q That narrative makes no mention about a male being
24 involved, am I correct?

25 A That's correct.

1 Q And, so that along with the other information caused you
2 to start looking for Lisa Weber and other prostitutes in
3 that Baldwin area, am I correct?

4 A Well, that was on the seventh but that doesn't mean that
5 we got that on the seventh, you know what I'm saying.
6 There's a delay because it goes in the departmental mail.
7 So, they told it on the seventh, we wouldn't have gotten
8 that until Monday or Tuesday because they don't deliver
9 the mail on weekends.

10 Q Okay. (Indiscernible).

11 A You know what I'm saying?

12 Q Yeah, I understand. Fair enough. But, you started
13 scouring the Baldwin area based on the description you got
14 for known prostitutes?

15 A For prostitutes, that's correct.

16 Q And, at some point after speaking with Mr. -- Mr. Stites
17 you got information that Lisa Weber was possibly involved?

18 A Yes, once that tip came in that (indiscernible).

19 Q And, so once the Mr. Stites was initially brought in in
20 order to do a -- a photo line-up that you described as a
21 six pack with the six women and -- in this photo line up
22 to determine whether -- seeing who was involved with the
23 incident at his house?

24 A Yes we showed him two or three different line-ups with
25 people other than Lisa Weber because at that time we would

1 have had a name. So, it was other known hookers or
2 prostitutes that were in the area that we put in the six
3 pack.

4 Q So, once a name was associated you would have shown -- you
5 would have shown the photo line-up or the six pack and
6 each -- and he identified Lisa Weber as the woman that was
7 at his house on August the sixth?

8 A Yes. He wasn't 100 percent 'cause the photo we had her
9 hair color was different than it is now, you know what I'm
10 saying.

11 Q And, so once -- once Ms. Weber's contacted she came
12 voluntarily into the police department, am I correct?

13 A That's correct.

14 Q And -- and even based off this thing that said she was
15 involved in the robbery, was she ever a suspect in the
16 robbery?

17 A Well, until we get her side of the story absolutely she
18 is.

19 Q So, when she came into the station -- I'm sorry, when she
20 came into the station did you feel a need or necessity to
21 read her her Miranda rights?

22 A We did not 'cause we were -- released her so.

23 Q Regardless as to what she told you at that moment you were
24 going to release her?

25 A Probably, yes.

1 Q So, when she comes -- when she comes in she -- did she
2 indicate to you that she has been on a crack binge for
3 several days or several weeks?

4 A Yes.

5 Q And, she said that -- did she appear or -- did she appear
6 or did it seem to you that she was under the influence of
7 crack cocaine when she was speaking?

8 A No.

9 Q But, when she gave you a rendition of what occurred to --
10 what you believed to the best of her knowledge at the
11 station, am I correct?

12 A That's correct.

13 Q And, she -- not only did she give you an oral statement
14 but she gave you a written statement?

15 A That's correct.

16 Q And, in the written statement did she indicate to you --
17 she indicated that she made it to Mr. Stites' house in
18 order to perform some type of sexual act, am I correct?

19 A That's correct.

20 Q And, she indicated that while she was there Mr. -- she
21 indicated that it was Mr. Stites' idea in order to order
22 drugs or bringing drugs in the home, am I correct?

23 A He paid for them. Now, whether it was her idea or his, I
24 don't -- I'm not sure.

25 Q And, so she -- she never mentioned to you when she spoke

1 to you on the 16th that prior to someone bringing the drugs
2 in the house that she herself and left out and stayed gone
3 and smoked drugs before she came back to the house?

4 A No.

5 Q And, she never mentioned to you that -- she did mention
6 that once the drugs were brought to the house that she and
7 Mr. Stites smoked the drugs and went into the bedroom to
8 have sex, am I correct?

9 A That's correct.

10 Q And, she said that's where -- when they got in the room to
11 have sex, that's when the person who brought the drugs
12 came into the bedroom with the gun and took the safe?

13 A That's correct.

14 Q And, she never mention the fact that she -- she herself
15 had watched the person actually leave the home that
16 brought the drugs, she never mentioned that did she on
17 August the 16th?

18 A I don't think so, no.

19 Q And, then she did not indicate to you that once they went
20 into the bedroom to have sex she actually had left out of
21 the bedroom in order to get a drink of water or something
22 and then returned to the bedroom to have -- to finish the
23 sex with Mr. Stites?

24 A I don't believe so.

25 Q But -- but she did indicate to you on August the 16th,

1 2016, that at some point after this incident occurred she
2 met up with the person who brought her the drugs to the
3 house, am I correct?

4 A (Indiscernible).

5 Q Did she -- did she mention to you on August 16th, 2016,
6 that two days after this incident she met up with someone
7 to purchase drugs?

8 A She met up with somebody, I don't know if it was to
9 purchase drugs but she did meet up with somebody, yes.

10 Q And, then that person gave her \$400?

11 A That's correct.

12 Q And, as -- and once you met with her again on November the
13 third, 2016, prior to that you had not -- as you indicated
14 on direct examination, you had not received a forensic
15 examination of a cell phone, am I correct?

16 A No. No, sir.

17 Q But, when you met with her on November the third, 2016,
18 you had received the information and you wanted to
19 question her based on some of the text message -- text
20 messages that you had gotten from the forensic
21 examination?

22 A That's correct.

23 Q And, when you confronted her about the text messages, as
24 the prosecutor indicated, she did not deny that those
25 messages had -- had been sent from her phone or a phone

1 that she had owned at that time?

2 A That's correct.

3 Q And, she had -- prior to that she had not told you about
4 that, am I correct?

5 A That's correct.

6 Q And, as it relates to the content of those text messages,
7 she indicated that you -- you confronted her saying well
8 these messages are talking about he has TVs here, you
9 know, what door to come -- when you come in and more
10 descriptive about where the house was, am I correct?

11 A That's correct.

12 Q And, again, she was not denying that, am I correct?

13 A That's correct.

14 Q And, in any of those text messages that you confronted her
15 with, if you recall, did any of them make any mention of a
16 K-1 or Killer?

17 A I don't recall.

18 Q And -- and at that point -- she finally broken down and
19 said to you look my brain is -- my brain is mush and my
20 memory is bad; do you recall her saying that to you?

21 A I remember her saying that, you know, with the drugs and
22 stuff -- (indiscernible) her exacts words the brain being
23 mush or whatever, but she did mention that, you know, she
24 was into a lot of drugs at that time.

25 Q And, then at that point in time on November third, 2016,

1 she volunteered the information that she had actually left
2 the house at one point, after she first arrived she left
3 the house and she remembers purchasing drugs from someone.
4 She never said anyone specifically, am I correct?

5 A I don't remember that. I mean I don't think I put that in
6 my report.

7 MR. TAYLOR: If I may approach, Your Honor?

8 THE COURT: Yes.

9 BY MR. TAYLOR:

10 Q In the last paragraph you -- I'm sorry.

11 MS. COLLINS: No, it's okay. Which one is it?

12 BY MR. TAYLOR:

13 Q In the last paragraph, can you read that last paragraph
14 please and let me know when you're done reading it?

15 MR. TAYLOR: May I approach again, Your Honor?

16 THE COURT: Yes.

17 BY MR. TAYLOR:

18 Q Does that refresh your recollection as it relates to the
19 conversation you had with -- in reference to her leaving
20 the house?

21 A Yes, sir.

22 Q And, in this statement she says -- you ask her
23 specifically who did she buy dope from when she left the
24 house, am I correct?

25 A Yes.

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1 Q And -- and then she -- you asked her did she buy dope from
2 Killer when she left the house the first time?

3 A That's correct.

4 Q And, her statement was no it was someone else, am I
5 correct?

6 A That's correct.

7 Q After the November the third, 2016, did you have any other
8 contact or any other interviews with Ms. Weber?

9 A No, sir.

10 MR. TAYLOR: Thank you, Judge. I have no further
11 questions.

12 THE COURT: Thank you.

13 Ms. Collins do you have anything else?

14 REDIRECT EXAMINATION

15 BY MS. COLLINS:

16 Q I just want to clarify a little bit with regard to the
17 Miranda. How -- was she in custody when she came in on
18 either August 16th or November third?

19 A She was not.

20 Q Okay. So, when someone comes in to the police department
21 even if they're a suspect are you required to give them
22 Miranda or you know you have the right to remain silent,
23 you have the right to an attorney, all of those rights if
24 they're going to walk out of the police department?

25 A No, you don't have to.

1 Q Now, that doesn't mean that you -- she can't be a focus of
2 your investigation, does it?

3 A No it does not.

4 Q Okay. And, that doesn't mean that you can't go on a
5 couple hours later and arrest her if you need to or, you
6 know, if you want to or need to and you have probable
7 cause?

8 A (Indiscernible).

9 Q Okay. With regard to your discussions with Ms. Weber on
10 either August 16th, 2016, or November third, did you ever
11 make her any promises that you were not going to prosecute
12 her?

13 A I did not.

14 Q Did you ever make her any promises that if -- if she
15 talked to you or if she told you information or anything
16 like that, that somehow she would either not be prosecuted
17 or get a deal or, you know, get a certain type of
18 punishment, anything like that?

19 A I did not.

20 Q And, I know that you had mentioned in your testimony that
21 you didn't know or didn't think that you had put it in
22 your report, the report that was given it you. Even if
23 you're involved in an interaction with a person do you at
24 times write a report as well as the other person that was
25 with you?

1 A Sometimes we both write them, sometimes one writes them.

2 Q Okay. So, if the report that you were shown was the
3 report authored by Detective Mullins but she was with you
4 that time, it still refreshed your memory, correct?

5 A That's correct.

6 Q But, it was in Detective Mullins' report, not necessarily
7 yours, if you even wrote a report as to that interaction
8 with Ms. Weber?

9 A That's correct.

10 Q When Ms. Weber spoke to you on November third, that was
11 the first time that she had relayed to you that she had
12 left Mr. Stites' home earlier in the evening and went and
13 purchased drugs, do I have that right?

14 A I believe so, yes.

15 Q Okay. So, she didn't mention that that first leaving and
16 then coming back when you spoke with her on August 16th?

17 A That is correct.

18 Q Okay. When she spoke with you on August 16th, did she also
19 -- let me just double-check myself. Let me ask you this.
20 Did Ms. Weber write a written statement during either the
21 August 16th interview or the November third, if you recall?

22 A I'm pretty sure the 16th, the first time she wrote one.

23 Q During that interview with her did she maintain that
24 Killer was the person who brought the drugs to Mr. Stites'
25 home even though he didn't mention that she had left

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1 earlier and bought drugs?

2 A That's correct.

3 Q Did she also tell you that this Killer who came back and
4 had the gun and robbed Mr. Stites?

5 A That's correct.

6 MS. COLLINS: I have no further questions.

7 MR. TAYLOR: No questions at this time.

8 THE COURT: Thank you, Lieutenant.

9 MS. COLLINS: Your Honor, the People -- may
10 Lieutenant Troy be released?

11 THE COURT: Mr. Taylor, any objection?

12 MR. TAYLOR: I have no objection.

13 THE COURT: Okay. Thank you.

14 (At 2:04 p.m., witness excused.)

15 MS. COLLINS: The People next call Deputy
16 Janczarek.

17 THE CLERK: Please step into the witness box and
18 raise your right hand.

19 Do you swear or affirm that the testimony you're
20 about to give is the truth and nothing but the truth?

21 MR. JANCZAREK: Yes sir, I do.

22 MS. COLLINS: Good afternoon.

23 THE WITNESS: Hi. How are you?

24 MS. COLLINS: Good. How are you?

25 THE WITNESS: Good.

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1 MS. COLLINS: Could I please have you state your
2 full name and spell your LAST name for the record.
3 Charles Janczarek. J-A-N-C-Z-A-R-E-K.

4 CHARLES JANCZAREK
5 called at 2:04 p.m., by the People and sworn by the clerk
6 testified:

7 DIRECT EXAMINATION

8 BY MS. COLLINS:

9 Q And, where are you employed?

10 A Oakland County Sheriff's Office.

11 Q How long have -- are you a deputy, a sheriff's deputy?

12 A I am.

13 Q How long have you been in law enforcement?

14 A Since November of 1990. So 17 years.

15 Q Have you always been with the Oakland County Sheriff's
16 Office?

17 A No, I've jumped around a little bit.

18 Q Okay. But, for the -- those last 17 years you have been
19 in law enforcement?

20 A Yes, for -- for the City of Pontiac for eight and a half
21 and the City of Auburn Hills for seven and a half and now
22 the Sheriff's Department for just over a year.

23 Q Okay. And, in your role as a police officer, as a deputy,
24 have you been assigned to road patrol, undercover work,
25 you know, all different types of assignments?

1 A I've kind of done quite a bit of different stuff. So, I
2 was a patrolman for the City of Pontiac for four years at
3 which time I was assigned to the narcotics enforcement
4 section which was we dealt with narcotics dealing street
5 level, mid-level, prostitution, liquor -- LLC violations,
6 pornography, so we were tasked with quite a bit of
7 different things with the City of Pontiac. Once I was
8 laid off and I was hired by the City of Auburn Hills I
9 worked for five and a half years in the road patrol and
10 then two -- the last two years I was with the City of
11 Auburn Hills I was actually assigned to Oakland County
12 Narcotics Enforcement Team. And, now I'm assigned -- and
13 then once I was hired by the Sheriff's Department I worked
14 for about three months on the road patrol in the City of
15 Pontiac and now I'm assigned to the Direct Patrol Unit
16 which is we deal with any type of street level crime in
17 the city.

18 Q And, that's called Directed Patrol?

19 A Yes.

20 Q How long have you been with the Directed Patrol Unit?

21 A It will be a year in April.

22 Q Okay. So, directing your attention back to the date of
23 August 12th of 2016, what was your duties at that time?

24 A I was assigned to the Directed Patrol Unit in the City of
25 Pontiac.

1 Q Okay. And, on August 12th of 2016, were you a participant
2 or did you have an occasion to be part of a team that was
3 executing a search warrant?

4 A I did. Quite often we'll assist in those search warrants.

5 Q And, did you on that date come into contact as a result of
6 that involvement, did you come into contact with a person
7 known as Kristopher Hughes?

8 A I did.

9 Q And, where was Kristopher Hughes when you came upon him?

10 A He was exiting a vehicle on the property where the warrant
11 was being executed.

12 Q And, if you saw Kristopher Hughes again -- well did you
13 have any interaction with him on that date?

14 A I did.

15 Q If you saw Kristopher Hughes again would you recognize
16 him?

17 A I would.

18 Q Do you see the person known to you as Kristopher Hughes
19 that you had interaction with on August 12th of 2016 here
20 in the courtroom?

21 A Yes.

22 Q Could you point to him and describe something that he's
23 wearing?

24 A He's wearing a white button-up shirt and he's seated next
25 to Mr. Taylor at defense table.

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1 MS. COLLINS: Your Honor, will the record reflect
2 that the witness has identified the defendant in this
3 matter, Kristopher Hughes?

4 MR. TAYLOR: No objection, Your Honor.

5 THE COURT: It does. Thank you.

6 MS. COLLINS: Thank you.

7 BY MS. COLLINS:

8 Q As a result of that interaction did you have occasion to
9 seize any items or item from the defendant?

10 A Yes.

11 Q Specifically, did you seize a phone from him?

12 A Yes.

13 Q Was that phone taken into -- when I say seized, was that
14 taken into the custody of yourself or the Oakland County
15 Sheriff's Office?

16 A Yes.

17 Q And, then that phone was that turned over to a particular
18 person, an officer in charge of this investigation on
19 August 12th?

20 A Yes, Detective Gorman (ph) who's actually a taskforce
21 officer with the City of Rochester. He and Sergeant
22 Stuart (ph) which is immediate supervisor they were
23 collecting and putting evidence together at that
24 particular incident.

25 Q And, to your knowledge that phone after it got turned over

1 to Detective Gorman, Detective Gorman turned it over to
2 someone else to do further investigation?

3 A Right.

4 MS. COLLINS: Your Honor, I have no further
5 questions at this time.

6 THE COURT: Thank you.

7 Mr. Taylor?

8 CROSS-EXAMINATION

9 BY MR. TAYLOR:

10 Q Detective Janczarek, you indicated that when you came into
11 contact with Mr. Hughes on August 12th, 2016, it was during
12 the course of the execution of a search warrant, am I
13 correct?

14 A Correct.

15 Q And, where exactly was Mr. Hughes when you first observed
16 him?

17 A When I first observed him he was pulling into the
18 driveway. So, he was operating a motor -- I didn't know
19 that it was him until he exited, but that was the vehicle
20 in question. So, as it pulled into the driveway --
21 initially I could confirm that it was him as he was
22 exiting.

23 Q And, as he was exiting the vehicle you actually -- were
24 you the officer that actually detained him?

25 A I did.

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1 Q And, did you do a -- a pat down search of Mr. Hughes to
2 determine if he had any weapons or contraband on his
3 person?

4 A An actually search. So, he was on the curtilage of the
5 warrant so he was actually searched (indiscernible).

6 Q And, when you searched his person what did you find?

7 A On his actual person, a cell phone.

8 Q In the car seat?

9 A I don't recall, sir.

10 Q And, the -- the actual vehicle that you saw him operating,
11 were you the officer that searched that vehicle?

12 A I did.

13 Q Were there any other cell phones found in that vehicle?

14 A I don't recall. I don't think so, no.

15 Q And -- and that was -- again you turned that phone which
16 you found on his person on to Detective Gorman?

17 A I did. It was -- we had some other evidence but in
18 particular that phone and everything that was recovered
19 from that vehicle was turned over to Gorman, yes.

20 Q But, no additional cell phone?

21 A No.

22 MR. TAYLOR: Thank you. No further questions.

23 THE COURT: Ms. Collins, anything else?

24 REDIRECT EXAMINATION

25 BY MS. COLLINS:

1 Q Deputy Janczarek, I just want to make sure. Do you -- do
2 you feel comfortable with your testimony that there was no
3 other cell phone found in the car or do you wish to look
4 at your police report --

5 A I know there was a phone recovered from him. As far as
6 the rest of the --

7 Q The vehicle itself --

8 A -- vehicle -- I know there's contraband so that's what
9 comes to mind, but as far as phones I -- I'd have to look
10 at the report to know for sure.

11 Q So, if -- would taking a look at the report help refresh
12 your recollection with regard to that?

13 A Yeah.

14 Q Take a look at that and review it at your leisure and let
15 me know when you're finished.

16 A That was it.

17 Q So, as far as phones go the only phone --

18 A As far as phones go the only phone dealing with Mr. Hughes
19 in that vehicle was the one on his person.

20 MS. COLLINS: Okay, thank you. I have no further
21 questions, Your Honor.

22 THE COURT: Mr. Taylor, anything else?

23 MR. TAYLOR: Nothing further at this time, Your
24 Honor.

25 THE COURT: Thank you, deputy.

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1 MS. COLLINS: May the deputy be excused?

2 MR. TAYLOR: I have no objection.

3 THE COURT: Thank you.

4 (At 2:13 p.m., witness excused.)

5 MS. COLLINS: Your Honor, the People next call
6 Deputy Wagrowski to the stand.

7 THE COURT: Thank you.

8 THE CLERK: Please step to the witness box and
9 raise your right hand.

10 Do you swear or affirm the testimony that you're
11 about to give is the truth and nothing but the truth?

12 MR. WAGROWSKI: I do.

13 MS. COLLINS: Good afternoon.

14 THE WITNESS: Good afternoon.

15 MS. COLLINS: Could I please have you state your
16 full name and spell your last name for the record?

17 THE WITNESS: Edward Wagrowski. W-A-G-R-O-W-S-K-
18 I.

19 EDWARD WAGROWSKI

20 called at 2:13 p.m., by the People and sworn by the clerk
21 testified:

22 DIRECT EXAMINATION

23 BY MS. COLLINS:

24 Q And, where are you employed?

25 A The Oakland County Sheriff's Office.

1 Q In what capacity?

2 A Detective in the Computer Crimes Unit.

3 Q Okay, in the Computer Crimes Unit. How long have you been
4 in law enforcement?

5 A Twenty years.

6 Q And, how long have you been with the Computer Crimes Unit?

7 A Two and a half.

8 Q And, in that time what -- what do you do in the Computer
9 Crimes Unit?

10 A We do cell phone forensics, extract data off of cell
11 phones, computer forensics, try to find deleted data,
12 stuff like that.

13 Q Now, as far as your experience with regard to cell phones
14 and forensic analyses, extraction, things like that, have
15 you received any specialized training in that regard?

16 A Yes, ma'am.

17 Q And, has that been over the course of the last two and a
18 half years?

19 A Yes, ma'am.

20 Q Does it extend beyond that?

21 A Yeah, it's continual training, updates on certifications
22 and stuff like that.

23 Q And, when you're -- in your duties are you sometimes
24 called upon to examine evidence that's been seized in an
25 investigation?

1 A Quite often.

2 Q I'd like to direct your attention -- well were you
3 provided on or about August 12th of 2016 with an -- I
4 should correct myself, you being provided with it on or
5 about August 23rd of 2016, some items from a Detective
6 Gorman as it relates to a search warrant execution?

7 A Yes I did.

8 Q Was one of those items a cell phone that you were asked as
9 a result of a search warrant to analyze?

10 A Yes, ma'am.

11 Q I'm speaking specifically about an LG K7 and I believe
12 it's identified as a model LG MS330.

13 A Yes, ma'am.

14 Q As part of your duties when you receive a cell phone, what
15 actions do you take in order to perform this extraction
16 and look for data, look for deleted information, things of
17 that nature, what do you do?

18 A Well, fast-forward passed filling out the forms and stuff
19 like that to track the evidence, we have -- there's --
20 there's different devices. There's a device called the
21 Cellebrite (ph) which is a standalone device, it has its
22 own operating system on there and there's other programs
23 that we use, this particular one I believe I used a
24 Cellebrite, and that that device does -- the USB port on
25 your phone, Android or an Apple phone doesn't -- it's not

1 designed to spit information out of that little USB
2 charging port, that's where we get that information from.
3 So, what these devices do, it puts a small, very small
4 software program on there that tells the phone hey it's
5 okay to give all that data and spit it out the USB port.

6 Q And, so you use this Cellebrite -- I don't even know what
7 it is, but a Cellebrite program?

8 A Well, no. No, it -- again it's -- I should learn to bring
9 a picture of it. It's -- it's on -- it's probably the
10 size -- I mean it's maybe the size of a toaster. It's
11 just a device.

12 Q Okay. But, that device communicates with the device and
13 in this case a cell phone to enable it to give you
14 information from the cell phone itself?

15 A Yes, ma'am.

16 Q And, in doing that were you called upon to extract any and
17 all information that you could from this cell phone?

18 A Yes, ma'am.

19 Q Now, at some point a couple months after that perhaps,
20 maybe a month or so, did you receive a call from me with
21 regard to the report that you had provided to Detective
22 Gorman in that other investigation?

23 A Yes, ma'am.

24 Q During our conversation with regard to the information
25 that was extracted and the report that I had been -- that

1 you had generated -- do you generate a report?

2 A Yes, ma'am.

3 Q In that report, fair to say that there was over 600 pages
4 of -- of a report including text messages, including
5 photographs, including all sorts of different data?

6 A Oh yeah, on an average phone there's usually that much.

7 Q Was -- is there a way to focus in your search if we're
8 looking for specific information or specific parameters,
9 such as if I'm looking for a specific phone number, if I'm
10 looking for a specific contact, things of that nature?

11 A Yes, ma'am.

12 Q How do you go about doing that?

13 A There's with -- like if you pull up the text messages, the
14 way that the software we use actually separates everything
15 and puts the pictures together, puts the videos together,
16 puts text messages, which refer to MS -- SMS, sorry, short
17 message service, group text messages which is called MMS,
18 anyway it sorts everything out to where it should be, and
19 then as you look at that stuff you can either search the
20 entire device that you extracted from one search field or
21 go within that specific area you're looking at, say text
22 messages, and search that information just in the text
23 messages.

24 Q Okay. With regard to the initial extraction, the very
25 first stages of your extraction, do you author a report,

1 an extraction report, that gives a basic rundown of the
2 number of items and the types of items that were located
3 as a result of your forensic analysis?

4 A Yes, ma'am.

5 Q Detective I'm showing you what's been marked as People's
6 proposed exhibit number four and I'd ask you to take a
7 look at that. It is a -- I think it's a total of three
8 pages but two actual pieces of paper stapled together. Do
9 you recognize that?

10 A Yes, ma'am.

11 Q What is that?

12 A This is the -- we refer to is a basic coversheet of the
13 report. It lets the investigator know, the officer in
14 charge of the case know everything that I got off the
15 phone, the time and day it was -- the extraction was done
16 and stuff like that.

17 Q Okay. And, the officer in charge of that particular case
18 that you were doing the report as a -- who requested do
19 the report --

20 A Right, correct.

21 Q Who was that?

22 A Gorman.

23 Q Detective Gorman?

24 A Yes.

25 Q On that report would that be able to tell Detective Gorman

1 or anybody else who's reviewing the report that there were
2 over 2,000 call logs. like over 2,900 text message or SMS
3 messages, and over 1,000 pictures that were extracted?

4 A Yes, ma'am.

5 Q Okay. Then the body of the report, the one I'm talking
6 about over 600 pages, would actually show whatever you
7 were able to retrieve, correct?

8 A Correct, yes.

9 Q The text messages themselves, more detail about --

10 A Yeah, that would be -- it'd be quite different than
11 something like this. (Indiscernible).

12 Q Were you asked to narrow your focus or to look for a
13 particular phone numbers, specifically and I'm going to
14 give you a few, but 248-894-4069 and 810-525-2561,
15 purportedly belonging to a Lisa Weber as well as a 248-
16 403-5581 purportedly belonging to a Ronald Stites?

17 A Yes.

18 Q That was based on a conversation you and I had had, right?

19 A Yes.

20 Q Okay. Were you able to do that?

21 A Yes, ma'am.

22 Q And, were you able to extract simply that information as
23 it relates to information from the phone that you could
24 directly link with those numbers?

25 A Yes.

1 Q Or, any of those numbers. If there were no contacts or
2 communications between one or more of those numbers and
3 the phone that you were examining there would be no report
4 on that, correct?

5 A It would give a blank screen.

6 Q Okay. As it relates to the phone number of 248-894-4069
7 were you able to locate any communications between the
8 phone and that number?

9 A Yes, ma'am.

10 Q Detective, I'm showing you now what's been marked as
11 People's proposed exhibit number five. I'd ask you to
12 take a look at that and tell me if you recognize that
13 document.

14 A Yes, ma'am.

15 Q What is that?

16 A It's the -- it's an Excel spreadsheet of the call logs for
17 the phone number ending in 4069.

18 Q Okay. Now, if you could take me through -- well does that
19 accurately reflect that report as it relates to all of the
20 calls that you were able to locate between the phone that
21 you were examining as well as that phone number ending in
22 8094?

23 A Ending in 4069?

24 Q I'm sorry, 4069; yes.

25 A Yes, ma'am.

1 Q Thank you.

2 A Okay.

3 Q Do you recall did you look throughout the phone for any
4 and all contacts between those two or simply surrounding
5 the date of August sixth of 2016?

6 A I believe it was just that phone number, any and all.

7 Q So, would that report -- does that report accurately
8 reflect the information that you were able to access and
9 retrieve from the phone that you were examining?

10 A Yes, ma'am.

11 Q Any changes been made to that?

12 A No, ma'am.

13 Q I'm now showing you what's been marked as People's
14 proposed exhibit number six, and I'd ask you to take a
15 look at that and tell me if you recognize that?

16 A Yes, ma'am.

17 Q What is that?

18 A This is again an Excel spreadsheet of the text messages
19 from the phone number ending in 4069.

20 Q And, again were you able to extract information as it
21 relates to communications via text between the phone you
22 were examining and that phone number that you mentioned?

23 A Yes, ma'am.

24 Q Does that phone number have an identifier in this
25 particular phone as belonging to someone by name?

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1 A By -- it has the name of Lisa next to the phone number.

2 Q In addition to those numbers had I asked you to do a
3 search of -- with regard to the name Lisa or Ronald?

4 A Yes.

5 Q Okay. And, was that what you were able to obtain?

6 A Yes, ma'am.

7 MS. COLLINS: Your Honor, at this time the People
8 move to admit People's proposed exhibits four, five, and
9 six.

10 MR. TAYLOR: No objection.

11 THE COURT: Okay. They'll all be admitted.

12 Thank you.

13 (At 2:24 p.m., People's exhibits four, five,
14 and six are admitted in to evidence.)

15 MS. COLLINS: Thank you.

16 BY MS. COLLINS:

17 Q Please let me know if you need to take a look at these in
18 answering any of my further questions. As it relates to
19 the call log let me ask you this. There is a portion
20 where it will say from or to or general, things like that.
21 What does that tell us?

22 A It -- it's basically the incoming and outgoing information
23 coming -- you know going away from the phone or coming
24 into the phone.

25 Q Okay. And, then there's a listing of date and then a

1 listing of a date and a time?

2 A Yes.

3 Q When I look at that and I see the date, and I'll just pick
4 one but let's assume August sixth of 2016 and it says
5 10:41:40 p.m., that time is that in Eastern Standard Time?

6 A Can I see that real quick, just to make sure?

7 Q Absolutely.

8 A Yeah, this one -- the report is in Eastern Standard Time,
9 yes.

10 Q And, how can you tell?

11 A Because it has -- when you extract the data off the phone
12 it asks you how do you want it to display the dates and
13 times, do you want it in UTC which is where all time
14 starts, usually about Greenwich Mean Time, and all time
15 starts from that point at either plus if it heads to the
16 right of UTC or minus if it heads to the left. And, at
17 this point were -- it was the month of August so we were
18 minus four hours from UTC and it says right there UTC
19 minus four hours.

20 Q And, with regard to -- it also has a timing of it, so some
21 -- some phone calls are listed as .08 seconds or 1:57. Is
22 that in minutes or seconds or hours, and if you need to
23 look at it --

24 A If I could look at it again, I apologize.

25 Q Certainly, no.

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1 A Yeah, this device it listed it in hours, minutes, seconds.

2 Q Okay. So, the -- let's assume that one at the time does
3 that say a minute --

4 A 57 seconds.

5 Q -- 57 seconds. The one below it says --

6 A It would be only 8 seconds.

7 Q 8 seconds, okay. And, then lastly the column indicating
8 either incoming, unknown, or outgoing, what does that
9 reference?

10 A Whether the phone made the call or received the call.

11 Q Okay. And, when we're talking about the phone you're
12 talking about the phone that you're analyzing?

13 A Yes, ma'am.

14 Q Okay. As it relates to the text messages, the text
15 messages log, or SMS messages, this document tells me that
16 you were able to locate 15?

17 A Yes, ma'am.

18 Q And, they were all to -- to or from between the number
19 ending in 4069 identified as Lisa?

20 A Yes, ma'am.

21 Q If I may show this to you again. Can you talk to me a
22 little bit about the first, third, and fourth that are
23 listed there?

24 A I believe -- oh this -- on this extraction -- on this
25 report sometimes depending on how the phone is put in, how

1 you -- how you save the phone number in it, if I don't put
2 it exactly how you saved it and the software compared or
3 paired the phone number with the name that you put there
4 it doesn't figure it out. If I type it in wrong it won't
5 give me any information. So, I knew the person I was
6 looking for the name was Lisa. So, I figured if they had
7 the name listed as Lisa next to that phone number I'm just
8 going to search the name Lisa. And, within one, three,
9 and four the name Lisa comes up within the text messages,
10 the text message itself.

11 Q Now, in one of those text messages at least it seems that
12 the name Melissa comes up rather than simply Lisa. So,
13 can you talk to us a little bit about that and why that
14 would be?

15 A It -- it gives you -- it narrows it down. If I would have
16 -- if I would have typed Melissa with two As -- or I'm
17 sorry Lisa with two As, Melissa would not have come up
18 because I gave it too much to search for. So, since I
19 narrowed -- I had a narrow search of just four letters
20 that's why it gave me Melissa 'cause it fit within there.

21 Q So, it extrapolates a little bit if you give -- if you
22 give -- you gave Melissa would Lisa come up? It doesn't
23 shorten it?

24 A No.

25 Q But, if you give Lisa something of an extended nature

1 comes up such as Melissa?

2 A Correct, yep.

3 Q Okay.

4 A Yes, ma'am.

5 Q Okay. And, again, as you're looking at that does that
6 tell you the time in Eastern Standard Time of those text
7 messages?

8 A Yes, ma'am.

9 Q Whether they are in the inbox, does that mean being
10 received?

11 A That it received it, yes.

12 Q Otherwise does it say outbox?

13 A It says sent.

14 Q Sent, okay. And, that would indicate that the phone that
15 you examined was the actual sender of that information and
16 that text?

17 A (Indiscernible).

18 Q Okay. With regard to this matter, did we also have
19 subsequent discussions about doing a secondary search if
20 you will as it relates to the name Killer?

21 A Yes, ma'am.

22 Q Okay. How about the name Kristopher with a K?

23 A Yes, ma'am.

24 Q And, were you able to perform those searches?

25 A Yes ma'am, I did.

1 Q So, let me ask you this, did you perform several searches
2 and variations on Killer?

3 A Yes ma'am, I did.

4 Q Okay. Did one of those include "kill" which would have
5 been in essence a shorter version of Killer?

6 A Yes, ma'am.

7 Q In searching for "kill" would you expect to be able to
8 extract text messages specifically that have the word kill
9 in them?

10 A Yes, ma'am.

11 Q How about Killer?

12 A Yes, ma'am.

13 Q How about Killa?

14 A Yes, ma'am.

15 Q So, any extension of -- how about "killed"?

16 A Yes, ma'am.

17 Q Okay. So, any extension of "kill" you would expect to get
18 that information?

19 A Correct.

20 Q Okay. With regard to the name Kristopher, if you put in
21 Kris, K-R-I-S, would you expect to be able to extract
22 information that references a Kristopher?

23 A Yes ma'am, it would.

24 Q As well as Kris?

25 A Yes, ma'am.

1 Q So, nothing shorter than Kris, nothing shorter than
2 "kill", but longer would show up?

3 A Yes.

4 Q Okay. And, were you able to extract any information that
5 had those two separate search terms in them?

6 A Yes, for both search terms there were several.

7 Q I'm showing you what's been marked as People's proposed
8 exhibit number nine. I'd ask you to take a look at that
9 and tell me if you recognize that.

10 A It looks like the report I generated.

11 Q And, specifically is that relating to text messages that
12 reference the word "kill" or any extension thereof?

13 A Yes, ma'am.

14 Q And, is that an accurate reflection of the report that you
15 were able to print out?

16 A Yes, ma'am.

17 MS. COLLINS: Your Honor, at this time the People
18 would move to admit People's proposed exhibit number nine.

19 MR. TAYLOR: Your Honor, at this time I would
20 propose an objection as it relates to the admissions of --
21 I believe the next two exhibits. And, I think we had
22 discussed this, but my objection is as it relates to
23 relevancy to this particular proceeding. But, again, as
24 it relates to it may be stale and, again, it may provide
25 information that may be prejudicial to Mr. Hughes, so I

1 would impose my objection as it relates to both of these
2 exhibits.

3 THE COURT: Okay. And, pursuant to the
4 discussions that were had previously the objection's
5 overruled.

6 MS. COLLINS: Thank you.

7 BY MS. COLLINS:

8 Q I'm showing you now what's been marked as --

9 THE COURT: I'm sorry, for the record, nine is
10 admitted.

11 (At 2:31 p.m., People's exhibit nine is admitted
12 in to evidence.)

13 MS. COLLINS: Thank you.

14 BY MS. COLLINS:

15 Q I'm showing now what's been marked as People's proposed
16 exhibit number ten. I'd ask you to take a look at that
17 and tell me if you recognize that.

18 A Yes, ma'am.

19 Q And, what is that?

20 A This is a -- I did an examination or a did search for just
21 the word "Kris" with a K.

22 Q Okay. So, Kris, anything extended from Kris with a K?

23 A Yes, ma'am.

24 Q And, you were able to retrieve I believe 30 from that
25 phone?

1 A Yes, ma'am.

2 Q Okay. Is that an accurate reflection of the report that
3 you were able to generate or a portion of the report that
4 you were able to generate as it relates to the search for
5 Kris?

6 A Yes, ma'am.

7 MS. COLLINS: Your Honor, at this time the People
8 move to admit People's proposed exhibit number ten.

9 THE COURT: Subject to the same objection?

10 MR. TAYLOR: Yes, Your Honor.

11 THE COURT: Okay. It will be admitted.

12 (At 2:32 p.m., People's exhibit 10 is admitted
13 in to evidence.)

14 MS. COLLINS: Thank you.

15 BY MS. COLLINS:

16 Q And, just so I'm -- just so I'm clear, the same type of
17 report with regard to the number that it's coming to -- or
18 coming from or going to, the time in Eastern Standard
19 Time, and the content of the text message itself?

20 A Yes, ma'am.

21 Q Now, if I do a search term of a word will I get a call
22 log?

23 A Depending on where you do the search at. Like I said you
24 can -- you can search the whole device, there's a search
25 field for that, or if you're within the text messages and

1 I search the word "kill" it won't show me if someone's
2 name has "kill" in it in the call logs.

3 Q Okay.

4 A I'd have to search the whole thing.

5 Q Did we also discuss some of the photographs in your entire
6 report?

7 A Yes, ma'am.

8 Q And, I'd like to show you a series of photographs. Well,
9 let me ask you about photographs and extracting them from
10 a cell phone. When you extract a photograph or a grouping
11 of photographs, are you able to determine when that
12 photograph was taken?

13 A Yes, ma'am.

14 Q And, how do you go about doing that?

15 A It's actually contained within what's called the metadata.
16 Well, you take a picture, the device you're using needs to
17 keep track of it somehow, it needs to know when it was
18 made, when it's modified, when it's accessed, whatever,
19 and then that information is then stored in what's called
20 the metadata of the phone which is -- I'm sorry, not the
21 phone I apologize, the metadata within that particular
22 image which is data within data. You know the date and
23 time within the picture itself which is the data.

24 Q And, with regard to some photographs that we discussed,
25 were you able to confirm that they came from the phone

1 that you analyzed, this LG7 MS330?

2 A Yes, within that metadata it said that it was -- that was
3 the device that took it.

4 Q Okay. And, in all fairness to you, are you a part of an
5 investigation as it relates to 17 West Rutgers in an armed
6 robbery that occurred August sixth, 2016?

7 A No, ma'am.

8 Q Okay. Even in your involvement with Detective Gorman's
9 investigation, are you provided with information other
10 than the information as is relates to the piece of
11 evidence that you're being asked to examine?

12 A No, ma'am. When they bring it to us we just have the
13 search warrant to make sure we have the authorization to
14 do the extraction.

15 Q So, are you familiar with Kristopher Hughes?

16 A No, ma'am.

17 Q So, with regard to some photographs, were you able to go
18 back into your report and access the photographs? And,
19 I'm going to show you first what's been marked as People's
20 proposed exhibit number 11. I'd ask you to take a look at
21 that photograph and tell me if you recognize that
22 photograph as being one from your report of the
23 photographs that were extracted from this particular cell
24 phone.

25 A Yes it was, ma'am.

1 Q I'm showing you what's been marked as People's proposed
2 exhibit number 12. Same questions; do you recognize that
3 photograph as being one of the photographs extracted in
4 your analysis of the cell phone?

5 A Yes, ma'am.

6 Q People's proposed exhibit number 13, do you recognize that
7 photograph as having been one that was extracted as a part
8 of your analysis of this phone?

9 A Yes, ma'am.

10 Q People's proposed exhibit number 14, do you recognize that
11 photograph as being one of the photographs that were
12 extracted as a part of your analysis of the cell phone?

13 A Yes, ma'am.

14 Q And, lastly, People's proposed exhibit number 15, do you
15 recognize that photograph as being one that was extracted
16 as result of this analysis on this phone -- or your
17 analysis on this phone?

18 A Yes, ma'am.

19 Q Now are you able to determine or were you able to
20 determine the dates which these particular pictures were
21 taken?

22 A Yes, ma'am.

23 MS. COLLINS: So, first let me -- I would move at
24 this time for the admission of People's proposed exhibits
25 11, 12, 13, 14, and 15.

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1 MR. TAYLOR: Your Honor, I would oppose (sic) the
2 same objection that I had as it relates to the text
3 messages and phone logs at this time.

4 THE COURT: Okay. Are these all photos -- I
5 understand from the phone --

6 MS. COLLINS: Yes.

7 THE COURT: But, what are they? Photo of what?

8 MS. COLLINS: Oh, I apologize. As a -- as a
9 proffer I would purport that People's proposed exhibit
10 number 11 --

11 THE COURT: Why don't you have him tell me what
12 they are.

13 MS. COLLINS: Okay.

14 THE COURT: So, they're --

15 MS. COLLINS: People's proposed exhibit number --

16 THE COURT: -- properly identified.

17 THE WITNESS: It appears to be a selfie, someone
18 standing in front of a mirror, it looks like Mr. Hughes,
19 standing in front of a mirror taking a picture of himself,
20 a full-length photo.

21 BY MS. COLLINS:

22 Q And, fair to say, I know you referenced Mr. Hughes, do you
23 only know Mr. Hughes for your interaction in the
24 courtroom?

25 A Yes, ma'am.

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1 Q With regard to People's proposed exhibit number 12, what
2 is shown in that photograph?

3 A Again, Mr. Hughes sitting in a chair, leaning back,
4 appears to be sitting in a chair.

5 Q And, People's proposed exhibit number 13?

6 A This is a close-up picture of Mr. Hughes.

7 Q Okay. And, People's proposed exhibit number 14, what does
8 that photograph show?

9 A It's a picture of people at a cemetery. It appears to be
10 letting balloons up in the air with the last name of
11 Hughes on them.

12 Q And, showing you People's proposed exhibit number 15, what
13 is shown in that photograph?

14 A More people standing in the cemetery.

15 Q Without balloons at that point?

16 A Yes.

17 MS. COLLINS: Your Honor, at this time the People
18 move to admit those exhibits 11 through 15.

19 THE COURT: All right. They'll be admitted.

20 (At 2:37 p.m., People's exhibit 11 through 15
21 are admitted in to evidence.)

22 MS. COLLINS: Thank you.

23 BY MS. COLLINS:

24 Q As it relates to People's exhibit number 11, were you able
25 to determine when that photograph was taken?

1 A Yes, I was.

2 Q And, when was that photograph taken?

3 A I apologize. June -- it was in June 2016.

4 Q Okay, okay. And, People's proposed exhibit number 12?

5 A I believe that one was also in June of 2016. He's wearing
6 the same t-shirt as well.

7 Q And, I'm asking you to do this from memory, so I
8 apologize.

9 A (Indiscernible).

10 Q If you don't recall let us know. People's proposed -- or
11 People's exhibit number 13, do you recall when that was
12 taken?

13 A No ma'am, I don't remember the date.

14 Q Okay.

15 A I remember giving out a couple yesterday so it's kind of -
16 -

17 Q Certainly. And, People's exhibit number 14.

18 A If I remember correctly because of the name saved it was
19 in July of 2016 if I remember correctly.

20 Q Okay. And, People's exhibit number 15?

21 A The same thing.

22 Q Okay, July of 2016?

23 A Yes.

24 Q Okay, thank you. In discussing these photographs, did you
25 and I have a conversation about whether or not you can

1 tell -- can you tell or make a determination based on your
2 extraction or your analysis whether these photographs --
3 whether photographs are taken by the phone you're
4 analyzing or whether they're taken by another phone and
5 then sent to the phone that you're analyzing?

6 A Yes, ma'am.

7 Q And, how do you go about doing that?

8 A Again, when -- there's usually the phone devices, whether
9 it's an Apple or an Android phone, it just stores the
10 device data that took the picture within the -- within the
11 image.

12 Q And, with regard to these photographs were you able to
13 make a determination or assess the likelihood or whether
14 they were taken by the phone that you were analyzing?

15 A Yeah, I believe three of them were.

16 Q Okay. And, do you recall which three?

17 A The ones all of -- of Mr. Hughes.

18 Q Okay. So, the one -- the selfie that you described?

19 A Yes, ma'am.

20 Q People's exhibit number 11, and I'll let you look at them,
21 but People's exhibit number 11 referencing that one?

22 A Yes, ma'am.

23 Q People's exhibit number 12?

24 A Yes, ma'am.

25 Q And, People's exhibit number 13?

1 A Yes, ma'am.

2 Q The two photographs in the cemetery, were you able to
3 determine whether or not those were sent to the phone that
4 you were analyzing or whether they were taken by that
5 phone or were you not able to make that assessment at all?

6 A I was not able to make that assessment.

7 Q Okay. So, it's -- it's -- it could be any one of those
8 possibilities?

9 A Yes, ma'am.

10 Q Okay, thank you.

11 THE COURT: Ms. Collins?

12 MS. COLLINS: I'm sorry. I was just looking for
13 the exhibit.

14 BY MS. COLLINS:

15 Q I did have a question about People's exhibit number six.
16 In going through some of those text messages, for instance
17 let's look at number six --

18 A Okay.

19 Q -- where it indicates in the text message portion itself,
20 "Open the doo", D-O-O. Okay, why would -- if there's a
21 cutoff -- if it cut portions or -- or full words off a
22 text message, why would that appear that way rather than
23 the complete text message?

24 A It would depend on each individual device is different how
25 it saves and stores data. On the Android phone, which is

1 what an LG phone is, the Android operating system, it
2 stores the data in a database file called the SMSDB, and,
3 again, depending on the operating system, if that database
4 file gets too full it might start kicking stuff out just
5 randomly.

6 Q Okay. So -- so some of these might -- like number 12 when
7 I say or when I read, "It's the first house on the left on
8 Rutger, I'll text in a mi", M-I, anyway to know whether
9 that word extended, whether that was an abbreviation used,
10 or whether there was more to that text message?

11 A No there is not.

12 Q Okay. This extraction -- do I understand correctly that
13 this extracts the information that is on that phone?

14 A Yes, ma'am.

15 MS. COLLINS: Your Honor, I have no further
16 questions for this witness.

17 THE COURT: Thank you.

18 Mr. Taylor?

19 CROSS-EXAMINATION

20 BY MR. TAYLOR:

21 Q Detective, you indicated that prior to this case -- were
22 you a deputy that patrolled the general area of Oakland
23 County prior to going to the forensic lab?

24 A Yes, sir.

25 Q And, you indicated that prior to having some contact with

1 this case, you have not had any contact with Mr. Hughes
2 prior to this?

3 A I haven't been -- I've been here 20 years, I can't say
4 with 100 percent certainty. I don't remember.

5 Q So, that -- I'm trying -- so that I understand you, I
6 think I have some -- a little confusion last time but I
7 think I got it better this time.

8 A All right.

9 Q You indicated that when you were given this particular
10 phone you -- when you did the initial extraction there
11 were over 600 pages of information whether it be by call
12 logging, text messages, or photos that you received from
13 this phone; am I correct?

14 A It would be a lot. I didn't look to see how many pages
15 there were but I would assume yes there would be a lot.

16 Q And, you said that would -- that's probably basically
17 normal for most phones that are being used by everyday
18 citizens?

19 A Yes, sir.

20 Q And, you indicated that you got a call from Ms. Collins
21 and you asked -- she asked you to narrow a search to a
22 particular number or name, am I correct?

23 A Yes, sir.

24 Q And, it is your testimony that when you were asked to
25 narrow your search for the name of Lisa -- or I should say

1 you were given a number first and then you looked for the
2 name, is that the way I should put it?

3 A No, actually I was given the name and the number at the
4 same time.

5 Q Okay.

6 A It says Lisa's phone number is --

7 Q And, so you put that your cell -- the Cellebrite machine,
8 you put the number in and then it spits out any -- any
9 numbers that -- that number that was given to you as well
10 as any names either Lisa or any extended names associated
11 with Lisa?

12 A Yes, sir.

13 Q All calls that would have been associated with that number
14 on that phone?

15 A Anything associated within that search term.

16 Q That would -- that would either have been call logs or
17 text messages?

18 A If I searched the entire device, yes. If I was within --
19 within that -- I believe when I did that report I was
20 within the text messages and I just searched the name
21 Lisa.

22 Q And -- and it's safe to say that when you got the text
23 messages, when there was a cross-reference to either the
24 phone number that being -- that being 894-4069 and Lisa it
25 came up with, for a lack of a better term, 15 contacts or

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1 15 hits as it relates to the text messages; am I correct?

2 A Yes.

3 Q And, those text messages were contained within the dates
4 of August fifth, 2016, and August 10th, 2016; am I correct?

5 A I'd have to look at it real quick just to make sure.

6 MS. COLLINS: Oh, I'm sorry, which one?

7 MR. TAYLOR: The text messages.

8 BY MR. TAYLOR:

9 Q I'm approaching with what's already been admitted as
10 People's number six.

11 A Yes, from August fifth through August 10th, sir.

12 Q And, actually the one on -- number one August 10th actually
13 contains the name of Melissa, which is an extended form of
14 the name of Lisa, am I correct?

15 A Yes, sir.

16 Q And --

17 MR. TAYLOR: May I approach the witness again,
18 Your Honor?

19 THE COURT: Yes.

20 BY MR. TAYLOR:

21 Q And, as it relates to the -- to the call log, this has
22 already been admitted in to exhibit number five I believe,
23 the call log came up with 19 -- 19 numbers associated with
24 -- or I should say contacts with the name of Lisa as well
25 as the number 248-894-4069, that name and number being

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1 provided to you by the prosecutor, am I correct?

2 A Yes, sir.

3 Q And -- and those -- and, again, those call logs are just
4 contained within the 24 hour period containing August
5 sixth, 2016; am I correct?

6 A Yes, sir.

7 Q And, it appears that 12 of the 19 calls are incoming calls
8 to the phone which would have been from Lisa, am I right?

9 A Yes, sir.

10 Q And, the last call on August sixth, 2016, being if --
11 being at 10:41 p.m. which would have been later on that
12 night, am I correct?

13 A Yes, sir.

14 Q And, the first call being which would have been call
15 number 19 which would have been the earliest call on
16 August sixth, 2016, would have been at 1:21 a.m.; am I
17 correct?

18 A Yes, sir.

19 MR. TAYLOR: May I approach the witness, Your
20 Honor?

21 THE COURT: Yes.

22 BY MR. TAYLOR:

23 Q You also indicated that when you were -- you were later
24 asked to look up any text messages or call logs that made
25 the reference of the name -- that had contained within it

1 the name Kris which would have been -- was spelled with a
2 K, am I correct?

3 A Yes, sir.

4 Q And, again, when you do that if you get the short version
5 any extended version of that or anything similar to that
6 may have letters more than what you've provided will pop
7 up, am I correct?

8 A Yes, sir.

9 Q And, so you -- you were provided with that and you got
10 several numbers or text messages -- or I should say text
11 messages in reference to the name of Kris or had
12 Kristopher, am I correct?

13 A Yes, sir.

14 Q Also, you were given the name or the letters "kill" to
15 place into this phone, am I correct, to the search?

16 A Yes, sir.

17 Q And, you indicated that if you put K-I-L-L into the phone
18 it would make reference to any text messages that either
19 had K-I-L or if they said K-I-L-L-A or if it had K-I-L-L-
20 E-R, any extended version of anything that had those four
21 letters in it initially, am I correct?

22 A As long as it contained those four letters, yes sir.

23 Q Okay. And, then even if it mentioned -- if it said
24 killing or the correct spelling of K-I-L-L-E-R, anything
25 of that nature; am I correct?

1 A Yes, sir.

2 Q Even if it talked about killed in the past tense or say K-
3 I-L-L-E-D, those text messages would have popped up, am I
4 correct?

5 A Yes, sir.

6 Q Did you find any text messages in making that reference
7 either with -- with the letters K-I-L-L or Kristopher then
8 associated with a number that you was initially given --
9 given to you that being the -- that either had Lisa
10 attached to it or it had the number, the 894-4069,
11 attached to it?

12 A I'd have to look at the exhibit. I didn't cross-reference
13 the two.

14 Q I'm showing you what's been marked as exhibited number
15 nine, or admitted as exhibit number nine and exhibit
16 number ten, and just review them and let me know whether
17 or not you see an association in that -- in those texts
18 with name Lisa or that number.

19 A No, sir.

20 MR. TAYLOR: May I approach the witness again,
21 Your Honor?

22 THE COURT: Yes.

23 MR. TAYLOR: I apologize for not asking to
24 approach the first time.

25 THE COURT: That's okay.

1 BY MR. TAYLOR:

2 Q As it relates to the photographs, you indicated that the
3 selfies were taken in June of 2016, am I correct? Based
4 on your recollection?

5 A Yes, sir.

6 Q And, the photographs that were taken in reference to the -
7 - to the grave site which seems like some type of memorial
8 or something of that nature, does it -- you can't
9 determine whether those were taken by the phone or whether
10 they were sent to that phone, am I correct?

11 A Correct.

12 Q But, you -- based on your recollection you believe those
13 photographs were developed on that phone around July of
14 2016?

15 A No, I believe the pictures were taken around that time
16 because of the way -- the file name it was -- actually had
17 July -- I want to say the 13th of 2016 as the name of the
18 image.

19 MR. TAYLOR: Thank you. I have no further
20 questions of this witness.

21 THE COURT: Ms. Collins, anything else?

22 MS. COLLINS: I have no further questions, Your
23 Honor.

24 THE COURT: Thank you, sir. You can step down.

25 (At 2:51 p.m., witness excused.)

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1 THE COURT: Can I have the attorneys approach for
2 a moment please?

3 MS. COLLINS: No objection to him being excused,
4 right?

5 MR. TAYLOR: No.

6 (At 2:51 p.m., bench conference off the record.)

7 (At 2:52 p.m., bench conference concluded.)

8 THE COURT: We're going to take our afternoon
9 break a little bit later, but I wanted to get that witness
10 done.

11 So, let's do 15 minutes. We'll bring you back
12 in at five minutes after 3:00 and then we'll proceed from
13 there.

14 Thank you.

15 THE CLERK: All rise for the jury.

16 (At 2:52 p.m., jury exited courtroom.)

17 THE COURT: All right. Thank you everyone,
18 please be seated.

19 Let's go over -- well first of all Ms. Collins I
20 understand that's -- that was your last witness, correct?

21 MS. COLLINS: That's correct.

22 THE COURT: So, obviously when they come back in
23 you can rest.

24 Mr. Taylor, no witnesses?

25 MR. TAYLOR: No witnesses. May I voir dire my

1 client at this time?

2 THE COURT: Yes, please.

3 Can we swear him in?

4 THE CLERK: Please raise your right hand.

5 Do you swear or affirm that the testimony you're
6 about to give is the truth and nothing but the truth?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Thank you.

9 Go ahead.

10 MR. TAYLOR: Mr. Hughes, you understand that you
11 are here on trial for the one count of armed robbery, am I
12 correct?

13 THE DEFENDANT: Yes, sir.

14 MR. TAYLOR: And, you and I have had a number of
15 discussions, we've been here before, and all of our
16 discussions have surrounded around your right and
17 constitutional right to testify if you choose to testify?

18 THE DEFENDANT: Yes, sir.

19 MR. TAYLOR: Based on all the -- the testimony,
20 based on the discovery, based on all the information that
21 is provided, we -- we have talked about it and you have
22 decided not to testify at this trial, am I correct?

23 THE DEFENDANT: Yes, sir.

24 MR. TAYLOR: And, you understand if you choose
25 not to testify that the jury cannot use that against you?

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1 THE DEFENDANT: Yes, sir.

2 MR. TAYLOR: And, nobody's threatened you to give
3 up your right not to testify?

4 THE DEFENDANT: Yes, sir.

5 MR. TAYLOR: Nobody's made you any promises?

6 THE DEFENDANT: No, sir.

7 MR. TAYLOR: And, nobody's made any, again,
8 threats or anything of that nature for you to give up your
9 right not to testify?

10 THE DEFENDANT: Yes sir, no one has made a
11 threat.

12 MR. TAYLOR: And, so you're choosing not to
13 testify in this trial?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: All right. And, I think -- I just
16 want to make sure I didn't hear this -- maybe I didn't
17 hear this correctly, but I think Mr. Taylor had asked you
18 if anyone had threatened you not to testify and you said
19 "yes sir." Has anyone threatened you or made you any
20 promises --

21 THE DEFENDANT: No, ma'am.

22 THE COURT: Okay. And, you fully discussed this
23 option with Mr. Taylor?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: And, you understand you have a right

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1 to testify and a right not to testify?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: And, as he indicated that will not be
4 held against you, the jury will be instructed that you
5 have an absolute right not to testify.

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: You understand that?

8 THE DEFENDANT: Yes, I do.

9 THE COURT: Ultimately, with all the discussions
10 that you've had with Mr. Taylor it's ultimately your
11 decision whether you chose to testify or not. You're
12 telling me that it's your choice and your decision alone
13 to not testify in this trial, is that correct?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Thank you.

16 Deputies, if you could take him down, have him
17 take a break, and then we'll call him -- call you back up
18 in about 10 minutes or so.

19 THE DEPUTY: Yes, Your Honor.

20 THE COURT: Oh and actually -- well, you know
21 what, we should go through the jury instructions. Hold
22 on, I'm sorry.

23 Does everybody have them in front of them?

24 MS. COLLINS: Yes, Your Honor.

25 THE COURT: I'm sorry, have a seat.

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1 We'll -- I'll give him time to go down. Does he
2 need to go down right now?

3 THE DEFENDANT: Yeah, I'm trying to --

4 THE COURT: Okay, I'm sorry. We'll take care of
5 the instructions when we come back up. Okay, thank you.

6 THE CLERK: All rise.

7 THE COURT: I would just ask the two of you to go
8 through the packet --

9 MS. COLLINS: We did.

10 MR. TAYLOR: We've already -- before lunch.

11 THE COURT: Okay, and you're okay? Okay, we'll
12 just do that for the record when we come back.

13 Okay, thank you.

14 Anything else?

15 MR. TAYLOR: I was going to discuss a scheduling
16 matter with you if I could.

17 THE COURT: Okay.

18 MR. TAYLOR: It's about tomorrow.

19 THE COURT: On the record or do you want to --

20 MR. TAYLOR: I can approach.

21 (At 2:55 p.m., bench conference off the record.)

22 (At 3:00 p.m., bench conference concluded.)

23 THE COURT: So, we'll bring him back up -- you
24 guys take a five minute break and we'll come back out in a
25 few minutes.

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1 (At 3:00 p.m., proceeding recessed.)

2 (At 3:09 p.m., proceeding reconvened.)

3 THE COURT: All right, thank you. Please be
4 seated.

5 All right. Do you have the jury instructions in
6 front of you?

7 MR. TAYLOR: Yes, Your Honor.

8 THE COURT: 3.01, duties of judge and jury; 3.02,
9 presumption of innocence; 3.03, defendant not testifying;
10 3.05, evidence; 3.06, witness credibility; 4.03,
11 circumstantial evidence; 4.05, prior inconsistent
12 statement used to impeach with just that first paragraph.

13 MS. COLLINS: Yes.

14 THE COURT: 4.16, intent; 5.02, weighing
15 conflicting evidence; 5.03, witness who's been interviewed
16 by a lawyer; 5.05, witness is a disputed accomplice; 5.06,
17 cautionary instruction regarding the accomplice testimony;
18 5.10, expert witness.

19 MS. COLLINS: Your Honor, we did not qualify
20 anyone as an expert during this trial so --

21 THE COURT: You didn't. Okay, so we'll take that
22 out.

23 5.11, police witness; 8.01, armed robbery; 3.10,
24 time and place; 3.11, deliberations and verdict; 3.13,
25 penalty; 3.14, communications with the court; 3.15,

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1 exhibits; 3.16, written instructions; 3.17, single
2 defendant/single count; and then 3.23 which is the verdict
3 form.

4 Everyone in agreement?

5 MS. COLLINS: Yes, on behalf of the People.

6 MR. TAYLOR: Yes, Your Honor.

7 THE COURT: Okay, thank you.

8 Let's bring in the jury.

9 THE CLERK: All rise for the jury.

10 (At 3:11 p.m., jury entered courtroom.)

11 THE COURT: If everyone could please be seated.

12 Ms. Collins, your next witness please.

13 MS. COLLINS: Your Honor, at this time the People
14 rest.

15 (At 3:11 p.m., plaintiff rests.)

16 THE COURT: Mr. Taylor, anything from the
17 defense?

18 MR. TAYLOR: Your Honor, we will offer no
19 witnesses for this trial and we will rest.

20 (At 3:11 p.m., defendant rests.)

21 THE COURT: Okay, thank you.

22 Then are we ready for closings?

23 MS. COLLINS: Yes, Your Honor.

24 THE COURT: Ms. Collins.

25 MS. COLLINS: Thank you.

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PEOPLE'S CLOSING ARGUMENT - 3:12 P.M.

MS. COLLINS: Ladies and gentlemen, at the beginning -- first of all thank you for your attention to this matter. I know that there was a lot of information coming your way and in some sense some of the information that was admitted during the trial you haven't yet had an opportunity to really take a look at, specifically the text messages and the call logs that were put into evidence.

So, first before I forget to tell you, each and every one of those exhibits that was entered, one through 15 by the People, are at your disposal to review and to look at. So, ask to see them when you go back to the jury room. You can take as long as you need with them, you can look at them at your -- at your leisure with regard to the evidence that's been admitted.

Those pieces of evidence have been admitted in conjunction with the testimony that you've heard from the witnesses that were called to the witness stand during this trial. And, I do thank you for your attention to all of these matters.

I know at the outset we talked about the fact that the defendant is charged with a single crime and that is armed robbery. The Judge is going to instruct you and talk to you about the elements of armed robbery itself but

1 as we spoke about in the beginning of the trial, we're
2 talking about a crime that consists of a person using
3 force or violence against another person, assaulting them,
4 placing them in fear of being hurt or injured, in the
5 course of taking someone else's property from them without
6 permission with the intent to deprive that person of their
7 rightful property for all time. That someone else was
8 present, specifically in this case Ronald Stites. And,
9 that while in the course of taking away this property from
10 Mr. Stites the defendant was in possession of a weapon or
11 something designed to look like one.

12 And, the reason I keep pointing that out is you
13 don't have a gun. We have -- we did not locate the gun
14 because when the police arrived and the armed gunman, the
15 armed robber, was no longer on the premises. So, if I
16 were to stand in front of you and say you should be able
17 to find by 100 percent that this gun was an actual gun,
18 not a BB gun, not a fake gun, that no one detected was
19 fake, I couldn't stand before you and say that. But, what
20 this law does allow you to do is take a look at it and
21 even if you're beyond a reasonable doubt convinced that it
22 was an actual operable gun, it was an item that was
23 perceived by Mr. Stites to be a gun. He described it, it
24 looked like a police officer's weapon, an automatic, a
25 handgun, things of that nature, but that takes out of your

1 obligation as a juror to decide whether or not it was an
2 actual gun.

3 The Judge is going to instruct you that if you
4 find it was an actual gun, a dangerous weapon, a gun, or
5 any other object designed to fashion itself in the form of
6 a dangerous weapon or to suggest that it was a dangerous
7 weapon, that is sufficient for that element of being armed
8 while you take someone else's property and use force or
9 violence.

10 Ladies and gentlemen I don't want to belabor the
11 elements themselves of armed robbery because as I stand
12 before you, I don't expect that that is going to be the
13 issue for this case. You have uncontroverted evidence
14 that Mr. Stites was the victim of an armed robbery at his
15 home on August sixth, 2016. There's no evidence to
16 suggest otherwise and that is -- that is everything that
17 you've heard and undisputed. The issue before you, ladies
18 and gentlemen, what I fully expect the arguments to be is
19 that it wasn't the defendant Kristopher Hughes. And,
20 that's what I expect will be the -- the bulk of your
21 conversations back in the jury room. That being said, it
22 is still my burden to prove to you each and every element
23 so I would be remiss if I didn't talk about what it means
24 to commit an armed robbery.

25 But, again, ladies and gentlemen, whether it was

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1 an actual gun or whether it was something fashioned to
2 look like a real gun, Mr. Stites testified that there was
3 a gun in that man's hand and his words that he used, "turn
4 over or I'll shoot you" also indicated that it was being
5 represented to be a gun that could do Mr. Stites harm.

6 Mr. Stites talked to you about the fact that his
7 safe was the object of the larceny or the theft and that
8 was his property, it contained his belongings, and that
9 once the two people that were committing the armed robbery
10 against him were gone his safe was no longer there and he
11 hasn't received his safe back.

12 When we talk about force or violence we talk
13 just about this very thing that Mr. Stites was placed in
14 fear of being harmed. He followed the orders of the armed
15 gunman, he turned over and put his face in the -- in the
16 mattress, and -- and he did so until the threat was gone,
17 until the armed robbery was completed and those people
18 were gone from his house. And, only then did he untie
19 himself and get to a place of safety and call 911 and
20 report it to the police.

21 So, let's talk a little bit about what evidence
22 you have that tells you beyond a reasonable doubt that the
23 armed gunman on August sixth over at Mr. Stites' home in
24 Pontiac here in Oakland County was the defendant
25 Kristopher Hughes. First you have Lisa Weber who

1 identified by a name, an identifier, that is connected
2 with this defendant, Kristopher Hughes, Killer, that he is
3 her -- one of her normal drug dealers. That she purchased
4 drugs from him that night. That this person Killer came
5 to Mr. Stites home and delivered drugs to her. That that
6 same person, undoubtedly, she's 100 percent sure, is the
7 same Killer person that came back into Mr. Stites' home.
8 She gives you the identity of who Killer is because when
9 she goes and talks to the police Lieutenant Troy is able
10 to ascertain that well I've got a person who has an
11 identifier or a street name or an a/k/a as Killer is that
12 who she's talking about, yes or no. Do you know this
13 person? Yes, says Lisa Weber, that's Killer. That's who
14 I'm talking about. So, now we have a face with the name
15 that she's provided. And, based on Lieutenant Troy's list
16 and based on the photograph that he's been able to obtain
17 and identify it with Kristopher Hughes, he now knows that
18 the Killer person that she's talking about is in fact the
19 defendant Kristopher Hughes. That's how they put a face
20 with the name, but she's been consistent from the date of
21 August 16th that Killer was the person who came and
22 delivered drugs and was the person who then came back and
23 robbed Mr. Stites.

24 Now, I understand that Lisa Weber's testimony
25 may provide you with a lot of concerns with regard to how

1 much to rely on Lisa Weber. And, the Judge is going to
2 give you a very specific instruction as it relates to
3 someone like Lisa Weber. I talked to you a little about -
4 - a little bit about this during my opening statement as
5 it relates to disputed accomplice testimony. Whether it's
6 disputed in each of your minds or not, that's how we
7 phrase it because she disputes that she is an accomplice.
8 Now, in many ways I submit that she doesn't dispute things
9 because she doesn't deny that the text messages that
10 you'll be able to review came from her and that she
11 exchanged them with the defendant, she doesn't deny many
12 of the different factors that Mr. Stites told you about
13 like tying him up or mentioning that the keys might be in
14 the closet and things like that. So, while ultimately she
15 tells you I wasn't involved in this or I didn't do this or
16 I didn't commit an armed robbery, the underlying facts and
17 circumstances that she's testifying to aren't always an
18 out and out denial.

19 That being said, as I exposed or asked you to do
20 during the beginning stages of this trial is I'm asking
21 you to resist the temptation to just say Lisa Weber is
22 completely incredible and I can't believe a word she says.
23 Because along with the disputed accomplice instruction
24 that the Judge is going to give you, the Judge is going to
25 give you a regular credibility instruction as well. And,

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1 one of the things that you're tasked to do is weigh her
2 testimony, number one, with the other evidence that you
3 have in making a determination of which part or parts of
4 her testimony are more reliable than others.

5 So, when I say resist the temptation, what I'm
6 asking you to do is parcel out her testimony, really take
7 a look at what she talked about and as it specifically
8 relates to the identification of who was the man that came
9 in with the gun, what evidence do you have that
10 contradicts her and what evidence do you have that
11 supports her testimony. Those are the questions that I'm
12 asking you to pose to yourselves.

13 The Judge is going to instruct you that as with
14 any witness they might be lying, they just may be
15 mistaken. If you believe that a person is lying or if you
16 believe that a person might have something wrong, you as
17 the jury are the only ones that can determine and that are
18 in the authority position to be able to determine whether
19 you believe all, none, or any part of a person's
20 testimony. And, the Judge will instruct you, I'm
21 confident, that if you think the witness lied about some
22 things but told the truth about others, you may simply
23 accept the part that you think is true and ignore the
24 rest.

25 And, I remind you that Lisa Weber is not the

1 person on trial today in this trial. She is not the
2 person that you're asked to find guilty or not guilty.

3 When the Judge talks to you about accomplice
4 testimony one of the things that she's going to ask you to
5 do is when you decide whether to believe an accomplice
6 consider certain things, including was the accomplice's
7 testimony falsely slanted to make the defendant seem
8 guilty because of the accomplice's own interests, biases,
9 or for some other reason. Has the accomplice been offered
10 a reward or been promised anything that might lead her to
11 give false testimony. Has the accomplice been promised
12 that she will not be prosecuted or promised a lighter
13 sentence or allowed to plead guilty to a less serious
14 charge. If so, could this have influenced her testimony.
15 You should be sure to examine an accomplice's testimony
16 carefully, closely.

17 You may convict the defendant based only on an
18 accomplice's testimony if you believe the testimony and it
19 proves the defendant's guilt beyond a reasonable doubt.
20 You may think about whether the accomplice's testimony is
21 supported by other evidence because then it may be more
22 reliable.

23 So, let's talk about that instruction that
24 you're going to get. Number one, if you believe Lisa
25 Weber you need nothing else. You don't need any other

1 evidence as it relates to who the person was that came
2 into Mr. Stites' home with that gun on August sixth, 2016.
3 If you believe Lisa Weber's testimony beyond a reasonable
4 doubt as it relates to that element you need nothing else.

5 Ladies and gentlemen, there are other pieces of
6 evidence though that you will be able to examine and that
7 have been admitted during this trial that support Lisa
8 Weber's identification. Let's not forget that as of the
9 night of the robbery, or the early morning hours of the
10 robbery, that Mr. Stites told Deputy McNeary that the same
11 person who came to deliver the drugs is the same person
12 that came into his bedroom and was armed with that gun;
13 the same person. Lisa Weber told the police on August 16th
14 that she ordered up drugs from Killer and that Killer came
15 back with the gun. Keep in mind that Lisa Weber was not
16 present at Mr. Stites' home when Mr. Stites told the
17 police that piece of information and yet the information
18 that she provided to the police ten days later is the
19 same. And, keep in mind that the testimony you heard was
20 that the two of them did not have any contact after the
21 armed robbery.

22 Mr. Stites told you about Lisa Weber's
23 involvement and what he perceived to be her involvement.
24 She disputes that she was involved but Mr. Stites tells
25 you that there was a male in his house with a gun and a

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1 female. Again, Lisa Weber was not there when Mr. Stites
2 gave that information to Deputy McNeary or the 911
3 dispatcher and yet that is the same information that she
4 provided to the police. While she disputes her
5 involvement in it, she admits that she in fact was the
6 female prostituting herself and that there was a man with
7 a gun; those are consistent.

8 You then have Lieutenant Troy who based on 26
9 years of experience has tallied up an a/k/a list that he
10 references. It's an investigative tool. But,
11 coincidentally when she mentions Killer he has someone on
12 his list that has a street name of Killer or an a/k/a of
13 Killer. Coincidentally it happens to be Kristopher
14 Hughes. Now things to know about Lieutenant Troy is that
15 Kristopher Hughes happens to meet the physical description
16 that Mr. Stites gave the police on August sixth directly
17 after the armed robbery and it matches the description
18 that you see here when you observe Mr. Hughes.

19 When you talk about the fact that Lieutenant
20 Troy coincidentally had Kristopher Hughes on his list and
21 that is the person that Lisa Weber identifies as the
22 person that she knows as Killer, stroke of luck or
23 corroboration for Lisa's identification of the defendant.

24 But, then on August 12th while -- on August 12th
25 you happen to have coincidentally a search warrant and a

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1 seizure of a phone. Again, on the defendant, on his
2 person, it's taken from him. And, on that phone it just
3 happens to have calls from Lisa Weber to and from and text
4 messages to and from Lisa Weber. It's identified and
5 these are part of the exhibits that I'm asking you to ask
6 to see, identified with one of the numbers that she gave.
7 And, keep in mind she indicated she had a number, then she
8 was trying to get clean so she changed her number, then
9 when she relapsed she gave out that number. But, back on
10 August sixth of 2016, the 894 -- 894-4069 number is on the
11 very phone that is seized from the defendant. And, the
12 nature and the timing of those text messages are what I'm
13 asking you to pay special attention to.

14 The text messages themselves -- so many pieces
15 of paper that I lose track. The text messages themselves
16 stemming of August fifth, 2016, in the later nighttime
17 hours starting at -- with 11:12 p.m. "Getting 50 be there
18 in 1." Now, in a vacuum that may not be significant but
19 keep in mind that Lisa Weber told you that she got \$50
20 from Mr. Stites and then she left Mr. Stites' home and
21 that she was going to get something to drink, then she
22 went and bought drugs with that \$50.

23 Fast-forward and when you're looking at August
24 sixth of 2016, at 12:53:06 a.m., a message sent from Lisa
25 at the phone number that she provided to you through her

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1 testimony, "It's the first house on the left on Rutgers.
2 I'll text in a mi", M-I. First house on the left on
3 Rutgers. That happens to be the very description that Mr.
4 Stites gave you when he was describing the location of his
5 house on Rutgers. When I asked him if he -- you know how
6 many houses were between Baldwin and his house and he
7 indicated there was a business building between he -- and
8 he said on the left. First house on the left on Rutgers.
9 I'll text in a minute.

10 Then August sixth at 1:32 a.m. a message sent
11 from the phone from the defendant to Lisa, "Text me or
12 call me." That's at 1:32 a.m.

13 1:36 a.m., a text message sent from Lisa, "I
14 can't. Do -- the door is opened, the first house on the
15 left."

16 At 1:40, for minutes later, "We're in the living
17 room", R-O-O.

18 One minute later at 1:41 a.m., "He has flat
19 screen TV." Now, that series of text messages, ladies and
20 gentlemen, seem to support her testimony about ordering up
21 drugs and wanting him to get there, they're in the living
22 room which corroborates both Lisa Weber as well as Mr.
23 Stites' testimony about where they were when the drug
24 dealer came to deliver the drugs. And, she spoke to you
25 about the flat screen TV and she tells you that she may

1 have told him that yes flat screen TVs because she wants
2 him to get there faster. Now, whether or not you believe
3 her reasoning behind telling him he's got flat screen TVs,
4 the documented evidence from the phone seized from the
5 defendant is that he was the one communicating with Lisa
6 that night. That he was the one being told that she --
7 that Mr. Stites has flat screen TVs. He's the one who's
8 coming to the house to deliver the drugs. He's even the
9 one perhaps when she bought the \$50 worth of crack cocaine
10 from when she went to the store and then smoked it in the
11 bushes.

12 Then from 1:41 until 2:34 there's a lack of text
13 messages between the two of them. But, then at 2:34 a.m.,
14 Lisa sends a text message saying the screen door is locked
15 but the door is unlocked. And, then two minutes later at
16 2:36 a.m. the defendant sends, "Open the doo", D-O-O.
17 And, three minutes later 2:39 a.m., she sends him, "I
18 did."

19 Again, ladies and gentlemen, now when you take
20 that in conjunction with when the 911 call is placed and
21 if you need to you can listen to that 911 call again, Mr.
22 Stites calls and it's documented that he calls at 3:06 and
23 he tells the dispatcher that it occurred just now, like
24 15, maybe 20 minutes ago. 2:39 he's sending him a text
25 message, she's sending him a text message, she's sending

1 the defendant a text message saying I did open the door,
2 corroborated by Mr. Stites' testimony that she left the
3 room purportedly to go get a drink would have given her
4 the very opportunity to unlock any doors that she needed
5 to to allow the defendant to come in. She happens to be
6 texting him back and forth, she's out of the room
7 purportedly getting water or getting something to drink.
8 It gives her the perfect opportunity to communicate with
9 him to tell him what's going on. At 2:39 her last text
10 that she sends to him at that timeframe saying I did open
11 the door or unlock the door just happens to be a little
12 more than 20 minutes before Mr. Stites is calling the
13 police. Just time enough for someone to get in, point a
14 gun at you, tell you to bury your face in the mattress,
15 grab your safe, riffle through your belongings, and get
16 out of there before Mr. Stites has the opportunity to run
17 to -- or not run to but get on the scooter and get to the
18 7-11 to call 911.

19 You also have subsequent text messages, one in
20 particular from Lisa sending it to the defendant on August
21 seventh. "After today because of lacko (ph) will not be
22 coming around anymore." But, ladies and gentlemen what is
23 particularly relevant and particular significant given the
24 testimony that you've heard and the evidence that you've
25 heard in this case are the text messages, the timing, and

1 the nature of those text messages when you look at Mr.
2 Stites' testimony, Lisa Weber's testimony, Lieutenant
3 Troy's testimony, and the documented evidence such as the
4 911 and the extraction reports from Detective Wagrowski.
5 All of that should give you great confidence in making the
6 determination that if you believe nothing else about Lisa
7 Weber's testimony, she is telling you the truth about who
8 it was that was there with her at Mr. Stites' home and who
9 came in armed with the gun and stole the safe or helped
10 her steal the safe.

11 You also have call logs, and again I ask you to
12 take a look at all of this. Look at the dates that are
13 being analyzed and surrounding the August sixth and August
14 fifth, 2016, dates. That they were in communication and
15 it should give you great confidence that she is accurate
16 when she tells you that Mr. Hughes is not a stranger to
17 her. She knows Mr. Hughes and she knows what -- and she
18 knows him when she sees him. She's 100 percent certain
19 that he's the person that she ordered the drugs up and he
20 came to Mr. Stites home that night and delivered the drugs
21 and he's the very -- and she's 100 percent certain that
22 he's the one who came in with the gun and robbed Mr.
23 Stites of his safe.

24 Ladies and gentlemen, you're tasked with the job
25 of determining what happened on August sixth, 2016, at Mr.

1 Stites' home. I submit to you that you have overwhelming
2 evidence that an armed robbery occurred and you have
3 equally overwhelming evidence that it was in fact
4 Kristopher Hughes who was the male involved in that armed
5 robbery against Mr. Stites. I'm simply asking you to
6 examine the evidence and follow that evidence where it
7 leads and that is to the only verdict that justice demands
8 and that is guilty as charged of armed robbery against Mr.
9 Hughes.

10 Thank you.

11 THE COURT: Thank you.

12 Mr. Taylor?

13 DEFENDANT'S CLOSING ARGUMENT - 3:36 P.M.

14 MR. TAYLOR: When we started off this trial I
15 said thank you and I will continue to say thank you
16 because even though this is -- by all means a short trial
17 Mr. Stites and Ms. Weber were probably the longest
18 witnesses that you heard from, you were very attentive the
19 entire time. Because that's what -- that's what it's
20 going to take in order you -- for you to make that final
21 decision as to whether or not Mr. Hughes is guilty or not
22 guilty of the crime of armed robbery.

23 When I started my opening statement I went -- I
24 went to great lengths in talking about what I believe Mr.
25 Stites was going to testify to because I knew that he was

1 going to be the only witness or I should say eyewitness to
2 this particular matter that was going to be consistent.
3 And, it was in his consistency that you can look at the
4 inconsistent statement of Ms. Weber and then you can make
5 the determination of her credibility and whether or not
6 she was being truthful of whether or not ultimately what
7 she was doing was mitigating her own actions in order to
8 save herself.

9 Now, we're talking about a young lady that has
10 admitted to prostitution, that has admitted to being a
11 crack addict, and as we know and deal with addiction it's
12 a day to day battle. We're dealing with a young lady who
13 indicated that she has mental issues, not only the
14 addiction that deals with her mental, but the mental
15 issues that she's dealing with that deals with her memory.
16 And, she says well I can remember some the big things but
17 some of the small things I cannot remember. When you're
18 dealing with a situation like this it is the small things
19 that determine whether a person is being truthful or not
20 because, again, as the prosecutor indicated, I'm not
21 standing before you and telling you that Mr. Stites was
22 not robbed. He was robbed. He was robbed by Ms. Weber
23 and he was robbed by someone else, some other African
24 American male. That African American male not being Mr.
25 Hughes. And, the evidence is very clear in pointing to

1 that because the only evidence that you have to look at to
2 make that determination is really the testimony of Ms.
3 Weber. Because the other evidence that you have that the
4 prosecutor wants you to look at and say look this is
5 credible evidence and beyond a reasonable doubt this
6 evidence corroborates the one consistent thing that Ms.
7 Weber is saying that it was K-1 or Killer who came into
8 that house and assisted her, and I say with great
9 confidence assisted her in -- in robbing Mr. Stites.

10 And, the reason why I say in confidence that she
11 was a participant is because of what Mr. Stites said
12 because, again, he was the only one that was consistent on
13 how this incident took place. He was the one that
14 testified and admitted based on his age that he's impotent
15 and that because of his health issues he walks to and from
16 his block on occasion in order to get some exercise
17 because he thought the doctors -- what the doctors had
18 told him that his legs -- his legs may be amputated. But,
19 in order to circumvent that he does what he can to deal
20 with his diabetes as well as high cholesterol by walking
21 back and forth from his home to Baldwin.

22 And, on this occasion he walks to his home and
23 unfortunately as I said in my opening statements, he ran
24 into Ms. Weber. Ms. Weber who indicated that on that day
25 when she ran into Mr. Stites and she says he had met him

1 two years ago when they -- she knew his proclivities, she
2 knew what he was going -- what he wanted. She says that
3 he engaged her in terms of sex and making money. But, we
4 know based on her own testimony that she had been on a
5 crack binge. She had been -- had used up all her subsidy
6 money, she had no other money, she clearly was looking for
7 any opportunity to make money to buy crack to feed that
8 demon to feed that monster that she was dealing with.
9 And, in the wake of that she was willing to do anything
10 and destroy anybody and deceive any person in order to
11 feed that monster that she was dealing with.

12 And, so we know what Mr. Stites said. He
13 indicated and consistently so, said that he asked him
14 could she make some money, she asked if she could go back
15 to his house, which she did although she indicated that
16 she had been there before. He kind of said he thought he
17 had engaged her before but he couldn't remember. Because
18 they get back to his house. Now, remember when you think
19 about what Ms. Weber said, and I'm going to differentiate
20 the two, she always made it seem as if the lack of memory
21 was on Mr. Stites. Oh, he's an older gentlemen, he's old,
22 he can't remember things, but she -- she had only been in
23 once or twice and she hadn't known him -- hadn't seen him
24 in two years but yet she continues to make statements
25 about his lack of memory and what he remembered, because

1 again Mr. Stites was the true victim in this situation and
2 being victimized by Ms. -- by Ms. Weber and whoever else
3 that other individual that came into the home, but
4 primarily by Ms. Weber.

5 So, she gets into the house. She gets there, he
6 goes into his bedroom, he doesn't think that she's seen
7 him but he's in the bedroom in order to get the \$50. And,
8 he has over \$4,000 in his safe. And, he told you he had
9 the money because he was going to help his brother out.
10 Turns out his brother didn't need the money because of --
11 it was late in the evening he couldn't get back to the
12 credit union so he put the money in his safe. So, he says
13 that it was primarily big bills, 50s and 100s. So, he
14 believed by paying her the \$50 or pulling out the
15 initially \$50 in his bedroom on the TV stand that that was
16 going to secure her for the rest of the evening. Her
17 thought was \$50, I'm not saying for \$50. Now, I'll do
18 what it is I came to do, but for me to stay the whole
19 night I'm not staying for \$50.

20 But, then you can see where now her wheels are
21 turning. She sees an older gentlemen that pulls out close
22 to \$4,000. He pulls out \$50. He gives it to her. She
23 takes the \$50 and she indicates -- she said that that was
24 the only \$50 that he got from her -- that she got from
25 her. Or, he claims, I should say, he said that was the

1 only \$50 he gave to her. And, I'm going to get to that
2 later.

3 So, she gets the \$50 and what does she do? He
4 says that he started performing oral sex on her but then
5 she decided she wanted to leave. She leaves the home. He
6 thinks she's -- he thinks she's not coming back. He said
7 oh well the \$50 is gone. You know, but he doesn't think
8 she's coming back. But, surprise, surprise she does come
9 back. And, why does she come back because remember
10 initially when she spoke with the police on August 16th,
11 2016, and when we -- she and I later spoke in September of
12 2016, she never mentioned or talked about her leaving that
13 home. She never talked about that. She never said it
14 even in her written statement to the police on August 16th,
15 2016, she never talks about her leaving that home the
16 first time, but she does. And, what does she do? She
17 goes out, she says look I only have two primary people
18 that I buy drugs from, that being the person I identify as
19 Killer or this person Mark or Mack or whatever the name
20 is. And, she says once she leaves out she's going to the
21 store, she runs into one of her primary drug dealers and
22 she buys drugs from that person.

23 Now, she says to you today that I'm certain that
24 that person that I purchased drugs from was Killer, but
25 when she previously spoke she admitted that it may have

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1 been my other drug dealer, it may have been Mack. And, on
2 November the third, 2016, when she spoke to Lieutenant
3 Troy and Detective Mullins and they asked her specifically
4 when you left the home who did you buy the drugs from, did
5 you buy the drugs from Killer, she said no it was someone
6 else other than Killer. Those were her words to them on
7 November the third, 2016. Her words after she was
8 confronted with the text messages that she sent. Because
9 remember August 16th, 2016, she even admitted during that
10 period of time she was still on a crack binge, she was
11 still getting high before she saw the card in her door, in
12 her parents' door, and then she goes to the police
13 station. She says I don't know what I'm going down there
14 for. But, she says admittedly that in that period I'm
15 still getting high. It was only a short period after that
16 I had a period of sobriety then I relapsed. And, she
17 spoke to the officers in November -- on November third,
18 2016, and then shortly thereafter she relapsed again and
19 then she sought treatment at Havenwick.

20 But, in that period of time you're talking with
21 a person who has admitted my brain is mush, the addiction
22 as kind of eroded my memory and has done everything to me
23 that I could possible think in a negative way as it
24 relates to mentality and my memory. And, again, going
25 back to her own statement, I remember the big things but

1 some of the little things I can't. But, that she does not
2 remember. She does not remember to tell the police oh I
3 left and I bought drugs -- well she told them on November
4 the third, 2016, I bought drugs from someone and it wasn't
5 a person she tried to claim as Killer or Kris Hughes.
6 She's clearly missing that that it wasn't him.

7 And, that's significant when you think about it.
8 She gets back to the house, she has drugs, and then she's
9 already gotten high. She spent -- we believe she spent
10 the \$50 that Mr. -- Mr. Stites had given her when she
11 first left. She tries to make it seem as if it's Mr.
12 Stites that wants to get high once she gets back. She
13 said they; you want to get some drugs, do you know where I
14 can get some drugs from? She says sure I can order them
15 up. I can call him. So, she apparently at that point,
16 which she initially doesn't tell the police that it was
17 after she came back from getting high that -- that she
18 tells them that it's always Mr. Stites who wanted to buy
19 the drugs. But, Mr. Stites indicated no it was her, she
20 wanted to -- she said to me hey do you -- can -- do you
21 want to get high, let's get high. She orders the drugs.
22 And, then she calls and she says there was a call made --
23 or she says I don't do much text messages but there's a
24 call made, not about the texting, she said a call. At
25 that point she says maybe five, 20 minutes later the

1 person she called comes in, goes into the -- goes into the
2 kitchen, comes in, she lets them, and this is what Mr.
3 Stites is saying from the beginning because he's the most
4 consistent one. He lets -- she initially lets the person
5 in, the person goes directly into the kitchen. He never
6 identifies the person, he doesn't see the person because
7 the person concealed themselves (sic) from him and they
8 turned their back and kind of walked past the television
9 and walked into the kitchen and that's where the
10 transaction is made. Now, at that point Ms. Stites --
11 remember Mr. Stites said I didn't give her any more money,
12 but she claims that not only did he give her \$50 just
13 because and then when the person who comes in to sell the
14 drugs, he pulls out another \$50 from his wallet and gives
15 it -- and sets it on the tray and she picks that up and
16 that was for the drugs. But, she says well look they
17 hadn't even began to have sex, he hadn't even paid her for
18 the sex yet.

19 But, Mr. Stites is adamant that when he went
20 into that safe that he only pulled \$50 and that was it.
21 So, we don't know when she left the first time to buy
22 drugs and get high did she spend all her money because
23 obviously she still had money left when she was going to
24 order some drugs up and have the person come by there and
25 sell her drugs. Because Mr. Stites was adamant that I did

1 not give her any more money. In fact he thought they had
2 stolen is wallet but then later on when the police came
3 out in order to search the premises after the 911 call
4 they found his wallet. And, so in that instance -- in
5 that instance, again, the consistency of Mr. Stites, the
6 person who is actually the victim in this particular
7 incident.

8 So, Mr. Stites indicates she comes back, the
9 drugs are bought, he doesn't give her any more money.
10 And, then once the drugs are bought they started to get
11 high. They immediately started to get high. They go to
12 the bedroom, they start to get high, it's either in the
13 hallway or at that little ledge area that she describes
14 that she starts to smoke the drugs. He doesn't actually
15 smoke the drugs because he says I hadn't gotten high like
16 that in a long time so he preferred for her to just blow
17 the smoke in this face. And, this is interesting because
18 she doesn't -- then the go into the bedroom, they get
19 undressed, she's told to -- he's down to his underwear.
20 She understands and he knows that the only thing that's
21 going to take place at this point is oral sex. There's
22 not going to be any intercourse because she made that
23 perfectly clear, she understood what his proclivities --
24 proclivities was and he himself said look, I'm -- you
25 know, my down there don't work so I knew what I was going

1 to -- what was going to happen.

2 And, so what happens when she gets him in the
3 room down to his briefs and she straddles him she says oh,
4 I need to go get a drink of water. Remember, Mr. Stites
5 was very diligent about locking his door and he indicated
6 that when the person left out after the person selling the
7 drugs that he locked his door, he locked it. The person
8 went out, he locked the door behind him, not Ms. -- not
9 Ms. Weber who indicated she -- she followed the person out
10 and locked the door. But, he was the one that locked the
11 door.

12 So, what did she do in that timeframe, she gets
13 off him and says I need a drink of water. Well, we know
14 she does this because when Deputy McNeary comes back to
15 the scene and he looks around he finds low and behold the
16 coffee cup which was admitted in to evidence or the photos
17 was sent out for fingerprinting was in the bedroom. It
18 was in the bedroom because that's -- it's very important
19 because remember in her first two statements she never
20 admits to going out of that bedroom. She says once they
21 go into the bedroom to have sex that's when the person
22 comes around -- comes around the corner. The person she
23 claims is the same person that sold her drugs comes around
24 the corner as if he never left the house. But, we know
25 about Mr. Stites' own testimony that the person left the

1 house because he locked the door behind. And, the only
2 way that person could have gotten back in that house is
3 when Ms. Weber got off of Mr. Stites, claimed that she
4 wanted to get a drink of water, goes and unlocks the door,
5 and lets the person in. And, that's evidenced by when you
6 see the text messages and you look at that.

7 And, the important thing about the text
8 messages, and when you look at it and you heard how the
9 detective did a search of the cell phone and what he was
10 asked to look for. He was asked to look for any
11 references to the name Lisa and the telephone number that
12 she associated with herself and on that particular cell
13 phone that was allegedly taken from Mr. Hughes six days
14 after this incident took place. And, when you look at
15 those messages it is clear, it is clear, who is the
16 initiator of the text messages, it is clear who is the
17 initiator talking about he has TVs, who is the initiator
18 as far as the door's open, where the house is, and things
19 of that nature. But, the one thing you won't find in
20 those text messages on that day and in that timeframe is
21 anything in reference to hey Killer this is -- this is
22 where I'm at. Hey Killer it's the second -- the first
23 house on the left. Hey Killer the door is open. Nothing
24 in reference to Lisa Weber's phone or the number that's
25 associated with her and the text messages on that day and

1 time.

2 And, even when you look at the call logs those
3 are -- those logs -- those numbers are within that short
4 time frame. They're within that 24 hour period of August
5 the sixth. None of it which makes any reference to a Kris
6 Hughes, Kristopher Hughes, Killer, Killa, K-1 in reference
7 to the phone coming from Ms. Weber. Because remember Ms.
8 Weber indicated that this is one of her primary drug
9 dealers. She's brought drugs from him on at least ten
10 different occasions and when she calls him up or texts
11 him, she said her preferred method was to call, that's how
12 she would contact her drug dealers. Well, if that is the
13 case, if she's had this kind of relationship with Mr.
14 Hughes or this Killer person, how come the only time you
15 see numbers, and remember there were over 600 pages of
16 information as far as text messages, phone calls, and
17 pictures that were taken from that phone, that it was on
18 Mr. Hughes we can say on the 12th but there's nothing that
19 says that phone was on him on August the sixth or in that
20 timeframe particular as it relates to Lisa Weber, because
21 there's nothing in which she mentions him on a personal
22 level. And, remember she says on November third, 2016,
23 that the person that she -- when she left that house, the
24 person she bought drugs from was not Mr. Hughes. And, so
25 there's no reference to it although she tries to make it

1 here today and says well it would have made more sense for
2 me because he lived a couple streets over so it would have
3 been closer, there's no way I would have went the opposite
4 direction to reach the other person. There's no evidence
5 or anything that links Mr. Hughes to that and there is
6 nothing that says that she didn't go that opposite
7 direction. And, there's nothing that shows that Mr.
8 Hughes had possession of that cell phone on that date and
9 at that time. Because we know as cell phones go, you
10 know, they're mobile. That's why they're cell phones,
11 that's why just about everybody in America has one.
12 People borrow them, people use them, other people have
13 them or whatever it may be. And, so -- but, again,
14 there's nothing that links him to that phone on August
15 sixth, 2016, in the early morning hours; nothing.

16 Even when you look at the phone for text
17 messages and there's a message from Lisa on the cell on
18 August the seventh. It's says, I'm not coming around
19 anymore after today because of the O. But, there's a
20 message just right under that in which it talks -- it
21 makes reference to her saying this Lany (ph) and Lisa I
22 went to Oz, Lisa got the scarecrow. So, if she saying I
23 didn't get the big O, that means she didn't get the high
24 she expected to get so she -- so whoever's she
25 communicated with that means she ain't coming around them

1 no more but she got the scarecrow. But, the other person,
2 Lany (ph) she got the Oz. So, it's not making any
3 reference to I'm not coming around anymore because hey you
4 -- you just robbed Mr. Stites and I'm afraid of you
5 because she indicated that look that could have been it
6 because she says look two days later I'm right back in
7 contact with him, although I'm afraid of him and I just
8 saw him rob this man with a gun I'm -- I'm not coming back
9 round him but yet the addictions got -- it has me by my
10 grips. My morals and everything are out the window so
11 that I can deal with this addiction yet I'm willing to
12 contact him or somehow come around him in order for him to
13 give me some money or give me some drugs. And, what does
14 she say has happened, he gives her \$400, she turns right
15 back around and gives him the \$400 for drugs. Which
16 doesn't make any sense if you know the (indiscernible) of
17 an addict, why give her any money? why don't you just --
18 if you're trying to pay her off or keep her -- hush her up
19 and not saying anything about a robbery or anything of
20 that why not just give her the drugs. It doesn't make any
21 sense to give her the money when she's going to turn back
22 around and spend the money with you. It just doesn't make
23 any sense. But, that's the rationale of a person who at
24 that time was in the throngs of an addiction. And, we
25 all understand that and an addiction has probably touched

1 every last one of us an our families in one shape or form,
2 that those that are in -- that are in the throngs of an
3 addiction, particularly crack, don't care who they hurt,
4 they don't care who they deceive. They're going to do any
5 and everything they can do to get that high.

6 And, so when she saw that card in her doorway,
7 in her mother's door, and she says well I don't know what
8 they want from me, but we know that at least by August the
9 seventh, based on the testimony of Lieutenant Troy that
10 they had already received, although he may not have
11 received it, maybe a day or two later, but on August the
12 seventh they had already received a tip, an anonymous tip,
13 that Lisa Weber may have robbed a person that Friday night
14 and that she's a prostitute, this prostitute who may have
15 robbed somebody the night before on August the sixth.
16 Doesn't say anything about Lisa Weber and another black
17 male or Lisa Weber and Killer robbed somebody, this talks
18 specifically about Lisa Weber robbing this gentleman.
19 And, yet we know that by her own statement that she was
20 two days later, and maybe even thereafter, contacting this
21 person she claims is her -- one of her primary drug
22 dealers, a person that's she's so afraid of, that she's
23 still willing to go around and buy drugs.

24 And, it's also interesting when you think about
25 it again on August the 12th of 2016 which is six -- six

1 days later after this incident takes place that Mr. Hughes
2 comes in contact with Mr. -- with Officer Janczarek and
3 this cell phone is taken from him, he doesn't remember if
4 there's any currency taken from him, but one thing they do
5 know there was no weapon taken from him at that time.
6 Because remember she -- he comes around there with a gun
7 on Mr. Stites and robs him.

8 So, ladies and gentlemen, when you think about
9 it all in conjunction with each other and you think about
10 Mr. Stites' story in comparison to Ms. Weber's story and
11 yet she has made some admissions as it relates to she
12 doesn't know whether she's going to be charged. She
13 doesn't know that -- I mean there's no promises that have
14 been made to her by either any detective or the
15 prosecutor's office as to whether or not she's going to be
16 charge but you can best believe that when she first went
17 to that police station and you can best believe throughout
18 this and again when she was confronted later about certain
19 information that she was in complete survival mode. And,
20 as that addiction and as that deception kicks in she was
21 going to do and say whatever it was to minimize her
22 involvement. And, ladies and gentlemen when you think of
23 it in those terms you truly have to look at whether she's
24 credible, and you truly have to believe in your mind and
25 in your hearts. It's not about bias and prejudice, it's

1 about whether or not the facts support and corroborates
2 anything she says that makes -- makes you believe that
3 she's credible on the ultimate decision or the ultimate
4 point as to who was the person who came in that house with
5 her along with Mr. Stites and helped her I should say rob
6 Mr. Stites 'cause that's what it boils down to. And, when
7 you look at all the evidence, you look at her statements
8 and you look at her text messages and you look at the
9 phone calls, the call logs I should say, there's only one
10 conclusion that you're going to come to that Mr. Hughes
11 was not involved in this and that Mr. Hughes is not guilty
12 of armed robbery.

13 And, you may have -- and the instructions are
14 clear you may your -- you qualms about Ms. Weber, you may
15 have some reservations about whether she was involved and
16 I -- I think you shouldn't have any reservations because
17 she admits that she was involved. Mr. Stites himself says
18 there's no doubt in his mind that she was involved and
19 when he -- she was the one -- she was the one that was
20 talking about the keys, where the keys are. She was the
21 one saying -- talking about the safe. It had nothing to
22 do with TVs and whether she said well if I say TVs that's
23 going to help the person, whoever I'm buying these drugs
24 from, that's going to motivate them to get there quicker
25 if they think there's something else to gain. But, if

1 you've got money and you're talking to a drug dealer and
2 if you've got money that's all the motivation a drug
3 dealer needs not to come to rob somebody and not to take
4 TVs. That's not the motivation because she understood
5 that it was about that safe and about getting into that
6 safe by any means necessary. And, that's what you do.
7 She used her -- her -- her position, she took authority of
8 that situation and (indiscernible) she needed to get
9 someone there to assist her and get that safe. And,
10 that's what happened.

11 So, ladies and gentlemen, when you look at all
12 the evidence again, use your reason, your logic, and your
13 common sense, apply it to the facts that you heard by
14 testimony and by the exhibits that will be -- that have
15 been admitted and apply that to the law that the Judge is
16 going to give you at the end of the day. And, if, again -
17 - it is clear to me that you'll find that Mr. Hughes is
18 not guilty of armed robbery.

19 Thank you.

20 THE COURT: Thank you, Mr. Taylor.

21 Any rebuttal?

22 MS. COLLINS: Yes, thank you.

23 PEOPLE'S REBUTTAL ARGUMENT - 4:03 P.M.

24 MS. COLLINS: Ladies and gentlemen, one of the
25 difficulties that you may have when you go back to the

1 jury room is not to let yourselves be dooped into couching
2 a distraction as a doubt. When you talk about the
3 differences in testimonies and when you talk about the
4 differences in some of the information that was provided
5 to you from the only two eyewitnesses to this crime which
6 were Ronald Stites and Lisa Weber, consider whether it is
7 truly a doubt or something that gives rise to a doubt for
8 you, or if it's simply a distraction and something meant
9 to muddy the waters for you.

10 It dawns on me that one of the ways one could
11 look at this is to sort of, at least at the outset, take
12 Lisa Weber out of the equation all together. Think about
13 what you heard from Mr. Stites. That he was robbed at gun
14 point, male holding the gun, comes around the corner and
15 in his bedroom doorway, there's a woman that was
16 prostitute -- was a prostitute at his home. Think of the
17 information that he gave you. When it boils down to it
18 there's a man and a woman involved in an armed robbery and
19 he knows that the man that's involved is the one holding
20 the gun. It's not a question of who's the mastermind
21 behind it or who plotted first or who made first contact.
22 Mr. Stites is telling you unequivocally that this man and
23 this woman, the prostitute that he brought back to his
24 home and this man who delivered drugs to his home after he
25 was called by Ms. -- or after he was called by the

1 prostitute, is the same man that came around with the gun.

2 Now, Mr. Stites tells the police hey you might
3 find fingerprints which we now know, again if we're
4 talking Lisa Weber out of the equation all together, we
5 now know that fingerprints came back matching a woman by
6 the name of Lisa Weber. You heard that from Lieutenant
7 Troy.

8 We also know that on August 12th a phone was
9 seized from this man, Kristopher Hughes, and on that phone
10 happens to be communication with a phone number belonging
11 to Lisa Weber. Coincidence? And, the subject matter or
12 the context of those texts happen to be around the same
13 time as this robbery and happen to correspond in very
14 significant ways with the testimony that Mr. Stites gave
15 you about what was going on in his house. The prostitute
16 comes, he gives her \$50, she leaves. I just got \$50, I'll
17 be there in a minute; text message. She comes back,
18 they're in the house, the prostitute orders up drugs, his
19 house happen to be the first house on the left on Rutgers.
20 Text message; we're in the living room, he's got flat
21 screen TVs, the door's open, first house on the left on
22 Rutgers.

23 And, then he says, Mr. Stites, I lock my doors
24 all the time. She asked me -- or she told me that she was
25 going to -- or the prostitute told me that she was going

1 to leave my room and she was going to get something to
2 drink or water. And, when she came back next thing I know
3 the man with the gun is in the doorway. We've got text
4 messages talking about open the door, I'm in, the screen
5 doors unlocked but the -- the screen door's locked but the
6 other door's not locked. Those are significant
7 coincidences connecting in a very significant and relevant
8 way when you're talking about in the context of what
9 happened to Mr. Stites on August sixth, 2016. Things that
10 you can't ignore and things that have nothing, absolutely
11 nothing, to do with the testimony of Lisa Weber.

12 Now, as a jury it would be remiss to just not
13 consider evidence that you've heard, not to make a
14 decision about evidence that you've heard. So, Lisa Weber
15 is part of the equation but it doesn't rise and fall with
16 Lisa Weber, make no mistake about that.

17 When you talk about Mr. Stites' testimony
18 consider the fact that the prostitute and the man
19 delivering the drugs went into the kitchen out of his
20 purview. What were they talking about in there? We won't
21 ever know but was it an opportunity for them to discuss
22 what was to happen next. Things to consider based on the
23 evidence that you heard ladies and gentlemen.

24 I talked to you when you first -- when I first
25 had the opportunity about reason, logic, and common sense

1 and how you're not expected to leave them at the door. In
2 fact instruction after instruction that the Judge will
3 give you will talk about reason and reasonableness. What
4 Mr. Taylor is asking you to do in large part is to suspend
5 that reason and logic and common sense when he talks about
6 the fact that you don't have evidence beyond a reasonable
7 doubt that the phone was in this defendant's hands on
8 August sixth, that it was someone else that Lisa Weber was
9 communicating with, nothing to suggest that he would have
10 been the one to have the phone, and I'm asking you to
11 consider that and consider all of the coincidences, all of
12 the just so happens that it would have had to have
13 occurred in order to make that conclusion reasonable,
14 commonsensical, logical.

15 Many of the inconsistencies between Ronald
16 Stites' testimony and Lisa Weber's testimony could be
17 explained by the fact that Lisa Weber wants to distance
18 herself from her role in what happened to Mr. Stites, but
19 it still doesn't explain why she would need to lie against
20 this man. Distraction or doubt? That is the question
21 ladies and gentlemen.

22 We talked about the phone having been seized
23 directly from the defendant on August 12th, and it's been
24 proposed to you that that shouldn't be seen as significant
25 because it's not August sixth and you get the phone off

1 the defendant on August sixth, so how do we know he had
2 the phone on August sixth? And, ladies and gentlemen
3 that's where some of the other exhibits come in, the 9
4 through 15 when Detective Wagrowski talked about the
5 photographs that are on the phone when he talked about
6 some of the text messages. Text messages repeatedly
7 referencing -- well first of all let's talk about text
8 messages does it make sense, do you -- when you text
9 somebody that you know do you say hey mom it's me Joe, do
10 you text that? Or, if I'm texting my mom, do I just say
11 hey call me later tonight or hey going to the movies
12 tomorrow want to go? What's -- what's normal behavior?
13 Is it normal that the text back and forth between people
14 that you know, between someone that you're going to commit
15 an armed robbery with wouldn't say hey K-1 or hey Killer
16 make sure you come to the door and I've unlocked it. Does
17 it make sense that it doesn't reference who the recipient
18 is going to be. And, in fact the person, Lisa's number,
19 is in the defendant's phone as Lisa indicating a
20 knowledge, a familiarity between the two. He doesn't need
21 her to call him by his name, street name, he knows who it
22 is.

23 But, you do have text messages with regard to
24 this phone stemming from May through -- through August
25 referencing the defendant -- or referencing Kris or

1 Kristopher with a K which is significant because it's not
2 the majority spelling, that's not the norm if you will of
3 how one spells Kristopher. Again, other people I'm sure
4 spell Kristopher with a K but is that a coincidence or
5 does that support the other evidence that suggests and
6 tells you beyond a reasonable doubt that the person
7 involved in this armed robbery was the defendant
8 Kristopher Hughes with a K?

9 And, these aren't from or to people -- these
10 aren't to or from Lisa, these are to and from other
11 people, other identified numbers. "Kristopher I love you.
12 What are you doing Kris, you pissed me off", things like
13 that in these text messages. "I'm done with you Kris.
14 Why do you have other women Kris", things like that and
15 you can read them. But, time and time again referencing
16 Kris or Kristopher with a K.

17 Similarly you have 30 -- well there's 30 text
18 messages referencing Kris or Kristopher, there's 13
19 referencing Killa or Killer, or "Hey Killer, dis me
20 Jessica. Was goin' on, you had getting my number when I
21 was walking. I can't remember where I know you from."
22 "What's up Killer." "Yo Killa, this David I met you the
23 other day fillin' them gas tanks up. I've got to holla at
24 you." Coincidences?

25 What evidence suggests to you that this phone

1 was not in the defendant's hands on August sixth? That it
2 was in someone else's hands. And, then while you're on
3 that line of thinking, think about the coincidences that
4 would have to happen. So, the person who mysteriously
5 that you have no evidence of having possession of this
6 phone but this mysterious unknown person that has the
7 phone happens to know Lisa, happens to want to commit an
8 armed robbery with her, happens to go to Rutgers. None of
9 this explains why Lisa Weber would lie against his man.
10 In fact the logic and reason and common sense tells you
11 that what that does is tells you that on that point on who
12 was with her, who committed that armed robbery on August
13 sixth, 2016, with her, was in fact this man, the defendant
14 Kristopher Hughes.

15 You also have pictures that Detective Wagrowski
16 revealed in his extraction and his report and ladies and
17 gentlemen it's for you to decide that we're talking about
18 a selfie in a mirror, that we're talking about another
19 picture where he's dressed in the same clothing. Ask
20 yourself is that the defendant? So, this other person
21 that might have mysteriously had his phone on August sixth
22 rather than him gave it back to him in time for it to be
23 seized off of him on August 12th, and gives it to this man,
24 Kristopher Hughes, on all these other occasions so that he
25 can take selfies, he can take pictures, he can take

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1 pictures with his family, with balloons commemorating
2 someone by the name of Jean Hughes. All of those
3 coincidences?

4 Talk a look at the picture of him close-up and
5 the black-rimmed glasses and the fact that Lisa Weber told
6 the detectives or told the police when she identified him
7 well he normally wears blacked-rimmed glasses. Take a
8 look at what you can see of his, I'm call it smile. And,
9 Lisa Weber testimony about the fact that he had a chipped
10 tooth or a missing tooth. These are things that she would
11 not have known when she's talking with the police, when
12 she's giving information about who was with her.

13 So, regardless of what you believe about whether
14 or not she's telling the truth about her involvement and
15 the details surrounding what she did, whether she left the
16 room to go get a glass of water or not, trying to distance
17 herself from her role and involvement in it, don't let
18 that serve as a doubt if it's simply a distraction.

19 Again, ladies and gentlemen, I'm asking you to
20 consider the evidence and I'm asking you to consider all
21 of the evidence in light of your reason and common sense
22 and I'm asking you to follow that evidence where it leads
23 and I'm asking you find the defendant guilty of armed
24 robbery.

25 THE COURT: All right. Thank you, Ms. Collins.

1 All right I have about ten minutes worth of
2 final instructions to read to you. But, before I do that
3 why doesn't everybody get up, maybe stretch your legs.
4 Just so that nobody falls asleep while I read to you.
5 And, that includes me 'cause we've all been sitting for a
6 little bit.

7 All right. So, while we're doing that I'm just
8 going to give you an idea of our schedule. I'm going to
9 read these instructions to you. These are the final
10 instructions for you. You don't have to take notes on
11 these. You'll get a copy. This copy will be sent back
12 with you. You'll start deliberations tomorrow.

13 Now, because of some craziness in terms of
14 schedules and a lot of things that are scheduled in this
15 Court and other courts, what we're looking at is bringing
16 you back to start deliberating at 11:00 a.m. and we would
17 go to about 3:00. The other option is to not do tomorrow
18 at all and come back and start first thing in the morning
19 at 8:30 on Thursday. But, I think we have a good -- good
20 stretch, like the equivalent of half a day, it's just in
21 the middle of the day kind of to do that tomorrow. So,
22 that's the schedule where we would go from 11:00 to 3:00
23 and if you need to and you're still deliberating we'll
24 start back up on Thursday at 8:30 and go all day if need
25 be. Okay, so that's -- that's our schedule.

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1 All right. Like I said about ten minutes worth
2 of reading, okay. So, have a seat. Thank you.

JURY INSTRUCTIONS - 4:18 P.M.

4 THE COURT: Members of the jury, the evidence and
5 arguments in this case are finished and I will now
6 instruct you on the law. That is I will explain the law
7 that applies to this case.

8 Remember that you have taken an oath to return a
9 true and just verdict based only on the evidence and my
10 instructions on the law. You must not let sympathy or
11 prejudice influence your decision.

12 As jurors you must decide what the facts of this
13 case are. This is your job and nobody else's. You must
14 think about all the evidence and then decide what each
15 piece of evidence means and how important you think it is.
16 This includes whether you believe what each of the
17 witnesses said. What you decide about any fact in this
18 case is final.

19 It is my duty to instruct you on the law. You
20 must take the law as I give it to you. If a lawyer says
21 something different about the law, follow what I say. At
22 various times I've already given you some instructions
23 about the law. You must take all my instructions together
24 as the law you are to follow. You should not pay
25 attention to some instructions and ignore others.

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1 To sum up, it is your job to decide what the
2 facts of the case are, to apply the law as I give it to
3 you, and in that way to decide the case.

4 A person accused of a crime is presumed to be
5 innocent. This means that you must start with the
6 presumption that the defendant is innocent. This
7 presumption continues throughout the trial and entitles
8 the defendant to a verdict of not guilty unless you are
9 satisfied beyond a reasonable doubt that he is guilty.

10 Every crime is made up of parts called elements.
11 The prosecutor must prove each element of the crime beyond
12 a reasonable doubt. The defendant is not required to
13 prove his innocence or to do anything. If you find that
14 the prosecutor has not proven every element beyond a
15 reasonable doubt then you must find the defendant not
16 guilty.

17 A reasonable doubt is a fair honest doubt
18 growing out of the evidence or lack of evidence. It is
19 not merely an imaginary or possible doubt but a doubt
20 based on reason and common sense. A reasonable doubt is
21 just that, a doubt that reasonable after and considered
22 examination of the facts and circumstances of this case.

23 Every defendant has the absolute right not to
24 testify when you decide the case you must not consider the
25 fact that he did not testify. It must not affect your

1 verdict in any way.

2 When you discuss the case and decide on your
3 verdict you may only consider the evidence that has been
4 properly admitted in this case. Therefore, it is
5 important for you to understand what is evidence and what
6 is not evidence.

7 Evidence includes only the sworn testimony of
8 witnesses, the exhibits admitted in to evidence, and
9 anything else I told you to consider as evidence. Many
10 things are not evidence and you must be careful not to
11 consider them as such. I will now describe some of the
12 things that are not evidence.

13 The fact that the defendant is charged with a
14 crime and is on trial is not evidence. The lawyer's
15 statements and arguments are not evidence, they are only
16 meant to help you understand the evidence and each side's
17 legal theories. You should only accept things the lawyers
18 say that are supported by the evidence or by your own
19 common sense and general knowledge. The lawyers'
20 questions to the witnesses and my questions to the witness
21 are also not evidence. You should consider these
22 questions only as they give meaning to the witnesses'
23 answers.

24 My comments, rulings, questions, and
25 instructions are also not evidence. It is my duty to see

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1 that the trial is conducted according to the law and to
2 tell you the law that applies to this case. However, when
3 I make a comment or give an instruction I am not trying to
4 influence your vote or express a personal opinion about
5 the case. If you believe that I have an opinion about how
6 you should decide this case you must pay no attention to
7 that opinion. You are the only judges of the facts and
8 you should decide this case from the evidence.

9 At times during the trial I have excluded
10 evidence that was offered or stricken testimony that was
11 heard. Do not consider those things in deciding the case.
12 Make your decision only on the evidence that I let in and
13 nothing else.

14 Your decision should be based on all the
15 evidence regardless of which party produced it. You
16 should use your own common sense and general knowledge in
17 weighing and judging the evidence but you should not use
18 any personal knowledge you may have about a place, person,
19 or event. To repeat once more you must decide this case
20 based only on the evidence admitted during this trial.

21 As I said before it is your job to decide what
22 the facts of the case are. You must decide which
23 witnesses you believe and how important you think their
24 testimony is. You do not have to accept or reject
25 everything a witness said. You are free to believe all,

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1 none, or part of any person's testimony.

2 In deciding which testimony you believe you
3 should rely on your own common sense and everyday
4 experience. However, in deciding whether you believe a
5 witness's testimony you must set aside any bias or
6 prejudice you may have based on the race, gender, or
7 national origin of the witness.

8 Again, there's no fixed set of rules for judging
9 whether you believe a witness but it may help you to think
10 about these questions. Was the witness able to see or
11 hear clearly? How long was the witness watching or
12 listening? Was anything else going on that might have
13 distracted the witness? Did the witness seem to have a
14 good memory? How did the witness look and act while
15 testifying? Did the witness seem to be making an honest
16 effort to tell the truth or did the witness seem to evade
17 the questions are argue with the lawyers? Does the
18 witness's age and maturity affect how you judge his or her
19 testimony? Does the witness have any bias, prejudice, or
20 personal interest in how this case is decided? Have there
21 been any promises, threats, suggestions, or other
22 influences that affected how the witness testified? In
23 general does the witness have any special reason to tell
24 the truth or any special reason to lie? All in all, how
25 reasonable does the witness's testimony seem when you

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1 think about all the other evidence in the case?

2 Sometimes the testimony of different witnesses
3 will not agree and you must decide which testimony you
4 accept. You should think about whether the disagreement
5 involves something important or not and whether you think
6 someone is lying or simply mistaken. People see and hear
7 things differently and witnesses may testify honestly but
8 simply be wrong about what they thought they saw or
9 remembered. It is also a good idea to think about which
10 testimony agrees best with the other evidence in the case.

11 However, you may conclude that a witness
12 deliberately lied about something that is important to how
13 you decide the case. If so, you may chose not to accept
14 anything that witness said. On the other hand if you
15 think the witness lied about some things but told the
16 truth about others, you may simply accept the part you
17 think is true and ignore the rest.

18 Facts can be proved by direct evidence from a
19 witness or an exhibit. Direct evidence is evidence about
20 what we actually see or hear. For example if you look
21 outside and see rain falling that is direct evidence that
22 it is raining.

23 Facts can also be proved by indirect or
24 circumstantial evidence. Circumstantial evidence is
25 evidence that normally or reasonably leads to other facts.

1 So, for example, if you see a person come in from outside
2 wearing a raincoat covered in small drops of water, that
3 would be circumstantial evidence that it is raining.

4 You may consider circumstantial evidence.
5 Circumstantial evidence by itself or a combination of
6 circumstantial evidence and direct evidence can be used to
7 prove the elements of a crime. In other words, you should
8 consider all the evidence that you believe.

9 If you believe that a witness previously made a
10 statement inconsistent with his or her testimony at this
11 trial the only purpose for which that earlier statement
12 can be considered by you is in deciding whether the
13 witness testified truthfully in court. The earlier
14 statement is not evidence that what the witness said
15 earlier is true.

16 The defendant's intent may be proved by what he
17 said, what he did, how he did it, or by any other facts
18 and circumstances in evidence.

19 You should not decide this case based on which
20 side presented more witnesses. Instead you should think
21 about each witness and each piece of evidence and whether
22 you believe them. Then you must decide whether the
23 testimony and evidence you believe proves beyond a
24 reasonable doubt that the defendant is guilty.

25 You've heard that a lawyer talked to one or more

1 of the witnesses. There is nothing wrong with this. A
2 lawyer may talk to a witness to find out what the witness
3 knows about the case and what the witness's testimony will
4 be.

5 Before you may consider what Lisa Weber said in
6 court you must decide whether she took part in the crime
7 the defendant is charged with committing. Lisa Weber has
8 not admitted taking part in the crime but there is
9 evidence that could lead you to think that she did. A
10 person who knowingly and willingly helps or cooperates
11 with someone else in committing a crime is called an
12 accomplice.

13 When you think about Lisa Weber's testimony
14 first decide if she was an accomplice. If after thinking
15 about all the evidence you decided she did not take part
16 in this crime, judge her testimony as you judge that of
17 any other witness. But, if you decide that Lisa Weber was
18 an accomplice then you must consider her testimony in the
19 following way.

20 You should examine an accomplice's testimony
21 closely and be very careful about accepting it. You may
22 think about whether the accomplice's testimony is
23 supported by other evidence because that may be more
24 reliable. However, there is nothing wrong with the
25 prosecutor's using an accomplice as a witness. You may

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1 convict the defendant based only on an accomplice's
2 testimony if you believe the testimony and it proves the
3 defendant's guilt beyond a reasonable doubt.

4 When you decide whether you believe an
5 accomplice consider the following. Was the accomplice's
6 testimony falsely slanted to make the defendant seem
7 guilty because of the accomplice's own interest, biases,
8 or for some other reason? Has the accomplice been offered
9 a reward or been promised anything that might lead her to
10 give false testimony? Has the accomplice been promised
11 that she will not be prosecuted or promised a lighter
12 sentence or allowed to plead guilty to a less serious
13 charge? If so, could this have influenced her testimony?

14 In general you should consider an accomplice's
15 testimony more cautiously than you would that of an
16 ordinary witness. You should be sure that you have
17 examined it closely before you base a conviction on it.

18 You've heard testimony from witnesses who are
19 police officers. That testimony is to be judged by the
20 standard you use to evaluate the testimony of any other
21 witness.

22 The defendant is charged with the crime of armed
23 robbery. To prove this charge the prosecutor must prove
24 each of the following elements beyond a reasonable doubt.
25 First, the defendant used force or violence against and/or

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1 assaulted and/or put in fear Ronald Stites. Second, that
2 the defendant did so while he was in the course of
3 committing a larceny. A larceny is the taking and
4 movement of someone else's property or money with the
5 intent to take it away from that person permanently. In
6 the course of committing a larceny includes acts that
7 occur in an attempt to commit the larceny or during the
8 commission of the larceny or in flight or attempted flight
9 after the commission of the larceny or in an attempt to
10 retain possession of the property or money. Third, Ronald
11 Stites was present while the defendant was in the course
12 of committing the larceny. And, fourth, that while in the
13 course of committing the larceny the defendant possessed a
14 weapon designed to be dangerous and capable of causing
15 death or serious injury or possessed any other object used
16 or fashioned in a manner to lead the person who was
17 present to reasonably believe that it was a dangerous
18 weapon.

19 The prosecutor must prove beyond a reasonable
20 doubt that the crime occurred on or about August sixth,
21 2016, within Oakland County.

22 When you go to the jury room you'll be provided
23 with a written copy of the final jury instructions.

24 You should first choose a foreperson. The
25 foreperson should see to it that your discussions are

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1 carried on in a business-like way and that everyone has a
2 fair chance to be heard.

3 During your deliberations please turn off your
4 cell phones or other communications equipment until we
5 recess.

6 A verdict in a criminal case must be unanimous.
7 In order to return a verdict it is necessary that each of
8 you agrees on that verdict.

9 In the jury room you will discuss the case among
10 yourselves but ultimately each of you will have to make up
11 your mind. Any verdict must represent the individual
12 considered judgment of each juror.

13 It is your duty as jurors to talk to each other
14 and make every reasonable effort to reach agreement.
15 Express your opinions and the reasons for them but keep an
16 open mind as you listen to your fellow jurors, rethink
17 your opinions, and do not hesitate to change your mind if
18 you decide you were wrong. Try your best to work out your
19 differences.

20 However, although you should try to reach
21 agreement none of you should give up your honest opinion
22 about the case just because other jurors disagree with you
23 or just for the sake of reaching a verdict. In the end
24 your verdict or you vote must be your own and you must
25 vote honestly and in good conscience.

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1 If you have any questions about the jury
2 instructions before you begin deliberations or questions
3 about the instructions that arise during deliberations you
4 may submit them in writing in a sealed -- in a sealed
5 envelope to the court clerk.

6 Possible penalty should not influence your
7 decision. It is the duty of the judge to fix the penalty
8 within the limits provided by law.

9 If you want to communicate with me while you're
10 in the jury room please have your foreperson write a note
11 and give it to the court clerk. It is not proper for you
12 to talk directly with the judge, lawyers, court officers,
13 or other people involved in the case.

14 As you discuss the case you must not let anyone,
15 even me, know how your voting stands. Therefore, until
16 you return with a unanimous verdict do not reveal this to
17 anyone outside of the jury room.

18 When you go to the jury room to deliberate you
19 may take your notes and full instructions. If you want to
20 look at any or all of the exhibits that have been admitted
21 just ask for them.

22 When you go to the jury room you'll given a
23 written a copy of the instructions you've just heard. As
24 you discuss the case you should think about all my
25 instructions together as the law you are follow.

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1 You may return a verdict of guilty of the
2 alleged crime or not guilty, and I've prepared a verdict
3 form listing the possible verdicts. I would also ask that
4 the foreperson sign and date the form after the
5 appropriate box has been marked.

6 Okay. Counsel satisfied with the instructions
7 as read?

8 MS. COLLINS: The People are satisfied.

9 MR. TAYLOR: Defense is satisfied, Your Honor.

10 THE COURT: All right, thank you.

11 Let's pick the alternate please.

12 THE CLERK: Juror number 14.

13 THE COURT: All right, sir --

14 THE CLERK: Or, seat 14.

15 THE COURT: Seat 14?

16 THE CLERK: Yes.

17 THE COURT: Okay. Juror in seat 14, if you could
18 step down for a moment please. And, my clerk will just
19 take you to the back and you can retrieve your items and
20 take him to the back hallway.

21 If you'll stand please.

22 Do you swear or affirm that you will to the best
23 of your ability keep the persons sworn as jurors on this
24 trial in some private and convenient place, that you will
25 not communicate with them orally or otherwise unless by

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1 order of the Court, and you will not before they render
2 their verdict communicate to anyone the state of their
3 deliberations or the verdict they have agreed upon?

4 THE CLERK: I do.

5 (At 4:30 p.m., clerk sworn to take charge of
6 jury.)

7 THE COURT: Okay, thank you.

8 All right. Ladies and gentlemen, I'm going to
9 excuse you for the day and I'm going to ask that you
10 return tomorrow at 11:00 a.m. Everyone please be timely
11 and we can get started at 11:00. We'll go straight
12 through obviously -- the middle of that is lunch. If you
13 want to maybe bring something with you. We'll go from
14 11:00 to 3:00 and if need be we'll start back up Thursday
15 morning at 8:30.

16 All right. I'll see you tomorrow morning.

17 Thank you.

18 THE CLERK: All rise for the jury.

19 (At 4:31 a.m., jury exited courtroom.)

20 THE COURT: All right. Anything else?

21 MS. COLLINS: I just have a question about
22 scheduling tomorrow. I feel like it should know this
23 answer, but when they first come in at 11:00 will we bring
24 them into the courtroom or will they just start
25 deliberating?

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1 THE COURT: Yeah, they're going to start
2 deliberating.

3 MS. COLLINS: So, if I -- would it be okay with
4 the Court if I went and came here for 11:00?

5 THE COURT: What do you mean?

6 MS. COLLINS: Well, because I have teaching at
7 10:00 and if I can do what I can do until needing to get
8 here.

9 THE COURT: You need to be here at 11:00. I
10 don't know what you do --

11 MS. COLLINS: You want me here not just in my
12 office, okay.

13 THE COURT: As you know given this trial there
14 might be questions --

15 MS. COLLINS: I know, I just wasn't sure about
16 the --

17 THE COURT: I want both of you here at 11:00
18 a.m., when they start deliberating, okay.

19 MS. COLLINS: Thank you.

20 THE COURT: See you tomorrow morning. Thank you.

21 (At 4:32 p.m., proceeding recessed.)

22 * * * * *

STATE OF MICHIGAN)
COUNTY OF OAKLAND) ss.

I certify that this transcript is a true and accurate transcription to the best of my ability of the proceeding in this case before the Honorable Hala Jarbou, as recorded by the clerk.

Proceedings were recorded and provided to this transcriptionist by the Circuit Court and this certified reporter accepts no responsibility for any events that occurred during the above proceedings, for any inaudible and/or indiscernible responses by any person or party involved in the proceeding or for the content of the recording provided.

Dated: July 20, 2017

 /S/ Kara Van Dam

Kara Van Dam, CER #7987

APPENDIX O
Jury Trial
March 1, 2017

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CLERK OF
COURT

16-260154-FC



JUDGE HALA JARBOU
PEOPLE v HUGHES, KRISTO

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

THE PEOPLE OF THE STATE OF MICHIGAN,

v

Case No. 16-260154-FC

KRISTOPHER HUGHES,

Defendant./

JURY TRIAL - VOLUME III

BEFORE THE HONORABLE HALA JARBOU, CIRCUIT JUDGE

Pontiac, Michigan - Wednesday, March 1, 2017

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CLERK

APPEARANCES:

For the People:

KELLY M. COLLINS (P58638)
Oakland County Prosecutor's Office
1200 North Telegraph Road
Pontiac, Michigan 48341
(248) 858-0656

For the Defendant:

RICHARD T. TAYLOR (P55237)
Law Offices of Richard T. Taylor, PC
P.O. Box 430696
Pontiac, Michigan 48343
(586) 481-5981

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Kara Van Dam, CER #7987

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WITNESSES

None

EXHIBITS

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None offered.

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1 Pontiac, Michigan

2 Wednesday, March 1, 2017 - 2:18 p.m.

3 * * * * *

4 THE CLERK: Calling People versus Kristopher
5 Hughes, case number 2016-260154-FC.

6 MS. COLLINS: Kelly Collins appearing on behalf
7 of the People.

8 MR. TAYLOR: Richard Taylor on behalf of Mr.
9 Hughes.

10 THE COURT: All right. So, he's being brought
11 in.

12 All right. Call the case.

13 THE CLERK: Calling People versus Kristopher
14 Hughes, case number 2016-260154-FC.

15 MS. COLLINS: Kelly Collins appearing on behalf
16 of the People.

17 MR. TAYLOR: Again, Richard Taylor on behalf of
18 Mr. Kristopher Hughes, Your Honor.

19 THE COURT: All right. Thank you.

20 The record should reflect the defendant is here.

21 I'm just going to go over the jury notes. We
22 received a jury note at 11:10 a.m. saying can we get all
23 the evidence. We sent that in.

24 A jury note at 11:59 saying need way to play 911
25 call CD, laptop, question mark. I indicated we would send

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1 in a laptop which we did along with my clerk and they
2 listened to the 911 tape.

3 At 12:12 we received a note that said do we know
4 if the safe manual was tested for fingerprints. We
5 replied with a note that said please rely on the evidence
6 and testimony admitted at trial.

7 And, at 2:09 we received a note that says we
8 have a decision.

9 So, we'll bring them in.

10 THE CLERK: All rise for the jury.

11 (At 2:21 p.m., jury entered courtroom.)

12 THE COURT: All right. Thank you everyone,
13 please be seated.

14 Ladies and gentlemen of the jury, I received a
15 note indicating that you had made a decision, meaning that
16 you've reached a verdict. Is that correct? Who is the
17 foreperson?

18 Okay, sir, could you hand your -- the verdict
19 form to my clerk for a moment please?

20 Okay, so I have a verdict form that is checked
21 off and it is dated and signed. Is this your signature,
22 did you date it?

23 JURY FOREPERSON: Yes.

24 THE COURT: Okay. I'm going to return this back
25 to you and I'm going to ask that you stand up and read

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1 from the verdict form what the jury's verdict is.
2 JURY FOREPERSON: Just this part under verdict
3 form?
4 THE COURT: Yeah. Just -- yeah just --
5 JURY VERDICT - 2:22 P.M.
6 JURY FOREPERSON: People of the State of Michigan
7 versus Kristopher Allen Hughes; count one, armed robbery.
8 Guilty of armed robbery.
9 THE COURT: And, that is signed and dated by you?
10 JURY FOREPERSON: Yes.
11 THE COURT: Ladies and gentlemen of the jury if
12 you -- if you'll all please stand.
13 You've heard the verdict as it's been read by
14 your jury foreperson, was that and is that your verdict?
15 THE JURY: Yes.
16 THE COURT: Okay. So, does anyone want them
17 individually polled?
18 MR. TAYLOR: Yes, Your Honor.
19 THE COURT: Have a seat, thank you.
20 We're just going to -- you're going to be
21 individually polled as to your verdict.
22 THE CLERK: Juror in seat one, was that and is
23 that your true verdict?
24 JUROR #6: Yes.
25 THE CLERK: Juror in seat two, was that and is

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1 that your true verdict?

2 THE COURT: Juror in seat number three.

3 THE CLERK: Juror in seat number three, was that
4 and is that your true verdict?

5 JUROR #71: Yes.

6 THE CLERK: Juror in seat four, was that and is
7 that your true verdict?

8 JUROR #279: Yes.

9 THE CLERK: Juror in seat five, was that and is
10 that your true verdict?

11 JUROR #243: Yes.

12 THE CLERK: Juror in seat six, was that and is
13 that your true verdict?

14 JUROR #154: Yes.

15 THE CLERK: Juror in seat seven, was that and is
16 that your true verdict?

17 JUROR #53: Yes.

18 THE CLERK: Juror in seat eight, was that and is
19 that your true verdict?

20 JUROR #265: Yes.

21 THE CLERK: Juror in seat nine, was that and is
22 that your true verdict?

23 JUROR #230: Yes.

24 THE CLERK: Juror in seat ten, was that and is
25 that your true verdict?

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1 JUROR #121: Yes.

2 THE CLERK: Juror in seat 11, was that and is
3 that your true verdict?

4 JUROR #84: Yes.

5 THE CLERK: Juror in seat 12, was that and is
6 that your true verdict?

7 JUROR #65: Yes.

8 THE CLERK: Juror in seat 13, was that and is
9 that your true verdict?

10 JUROR #152: Yes.

11 THE COURT: Ladies and gentlemen, on behalf of
12 both parties and on behalf of the Court I want to thank
13 you for your time and the attention that you've put into
14 this case. I'm going to excuse you to go back into the
15 jury room. I'll be back in there in a few minutes to
16 excuse you for good. Okay. Thank you.

17 THE CLERK: All rise for the jury.

18 (At 2:23 p.m., jury excused.)

19 THE COURT: All right. Thank you everyone,
20 please be seated.

21 Swear him in please.

22 THE CLERK: Sir, please stand. Raise your right
23 hand.

24 Do you swear or affirm that the testimony you're
25 about to give is the truth and nothing but the truth?

LI1.7/25/2017.1:33:06 17947

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Sir, can you state your name?

3 THE DEFENDANT: Kristopher Allen Hughes.

4 THE COURT: Sir, were you previously convicted of

5 possession of a controlled substance less than 25 grams

6 sentenced on or about February 13th, 2014, in Oakland

7 County Circuit Court?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: Were you previously convicted of

10 assault with the intent to do great bodily harm less than

11 murder sentenced on June 17th, 2010, in Oakland County

12 Circuit Court?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: And, were you previously convicted of

15 being a felon in possession of a firearm sentenced on or

16 about June 15th, 2010, in Oakland County Circuit Court?

17 THE DEFENDANT: Yes, ma'am.

18 THE COURT: All right. I need a sentencing date

19 so -- Mr. Taylor, March 20th at 1:00 p.m. is the earliest

20 we can do or March 27th.

21 MR. TAYLOR: The 20th is fine, Your Honor.

22 THE COURT: Okay. March 20th --

23 MR. TAYLOR: I could just -- if I could just look

24 at my calendar?

25 MS. COLLINS: Can we make it the 27th?

111.7/25/2017.1:33:06 17948

1 MR. TAYLOR: That's fine.

2 THE COURT: The 27th?

3 MS. COLLINS: 27th. Thank you.

4 THE COURT: March 27th at 1:00 p.m.

5 MR. TAYLOR: Your Honor, the only other thing
6 that I would ask, I know we're actually scheduled this
7 Monday on the other matter that's scheduled for sentencing
8 --

9 THE COURT: Do you want to adjourn that to the
10 other date?

11 MR. TAYLOR: Can we adjourn that to that date as
12 well?

13 THE COURT: Sure. We can do that.

14 Ms. Collins, if you could let Ms. Jacobs know.

15 MS. COLLINS: I will, yes.

16 THE COURT: We'll adjourn that other case.

17 MS. COLLINS: And, Your Honor, I know that the
18 defendant is currently in custody but I would ask at this
19 time that his bond be revoked or that -- yeah bond be
20 revoked so that --

21 THE COURT: Okay. Motion's granted. Fill out a
22 -- the order as to that.

23 Anything else?

24 MS. COLLINS: Nothing from the People.

25 MR. TAYLOR: Nothing from defense.

...
LII.7/25/2017.1:33:06 17949

1 MS. COLLINS: Is it still the Court's policy we
2 don't talk to the jury after? Okay.

3 If the Court could just extend our thanks for
4 their service.

5 THE COURT: Mr. Taylor, anything else?

6 MR. TAYLOR: Nothing further, Your Honor. Thank
7 you.

8 THE COURT: Thank you.

9 THE CLERK: All rise.

10 (At 2:26 p.m., proceeding concluded.)

11 * * * * *

LII.7/25/2017.1:33:06 17950

STATE OF MICHIGAN)
COUNTY OF OAKLAND)ss.

I certify that this transcript is a true and accurate transcription to the best of my ability of the proceeding in this case before the Honorable Hala Jarbou, as recorded by the clerk.

Proceedings were recorded and provided to this transcriptionist by the Circuit Court and this certified reporter accepts no responsibility for any events that occurred during the above proceedings, for any inaudible and/or indiscernible responses by any person or party involved in the proceeding or for the content of the recording provided.

Dated: July 20, 2017

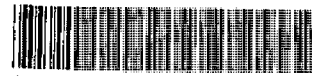
Kara Van Dam / S.S.

Kara Van Dam, CER #7987

APPENDIX P
Joint Sentencing
March 27, 2017

11.5/16/2017.11:35:4017650

OAKLAND COUNTY 16-260213-FH



JUDGE HALA JARBOU
PEOPLE v HUGHES, KRISTO.

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

THE PEOPLE OF THE STATE OF MICHIGAN,

v

Case No. 16-260213-FH
16-260154-FC

KRISTOPHER HUGHES,

Defendant./

SENTENCE HEARING

BEFORE THE HONORABLE HALA JARBOU, CIRCUIT JUDGE

Pontiac, Michigan - Monday, March 27, 2017

BY
DEPUTY CLERK
7-11-17

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APPEARANCES:

For the People:

KELLY M. COLLINS (P58638)
Oakland County Prosecutor's Office
1200 North Telegraph Road
Pontiac, Michigan 48341
(248) 858-0656

For the Defendant:

RICHARD T. TAYLOR (P55237)
Law Offices of Richard T. Taylor, PC
P.O. Box 430696
Pontiac, Michigan 48343
(586) 481-5981

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Kara Van Dam, CER #7987

111.5/16/2017.11:35:4017651

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WITNESSES

None

EXHIBITS

None offered.

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111.5/16/2017.11:35:4017652

1 Pontiac, Michigan

2 Monday, March 27, 2017 - 3:18 p.m.

3 * * * * *

4 THE CLERK: Calling number 17 and number 38 on
5 the docket, People versus Kristopher Hughes, case number
6 2016-260213-FH, case number 2016-260154-FC.

7 MS. COLLINS: Kelly Collins appearing on behalf
8 of the People on both cases today.

9 MR. TAYLOR: Again, for the record Your Honor,
10 Richard Taylor on behalf of Mr. Kristopher Hughes on both
11 matters that are scheduled for sentencing here this
12 afternoon.

13 Your Honor, I did have an opportunity to meet
14 with Mr. Hughes. We did have the opportunity to review
15 both the presentence reports in this matter. As it
16 relates to the body of the reports I don't -- I guess it's
17 one thing that I need to bring to the Court's attention
18 and I don't know if it's in the actually report, but Mr.
19 Hughes was just indicating to me that one of the
20 individuals that was possibly involved in the drug case
21 that -- and I don't believe the person testified at the
22 preliminary examination but there may -- he may have been
23 a potential witness as it relates to any further case that
24 goes to trial, that person passed away. I don't know -- I
25 didn't know that the person had passed away --

111.5/16/2017.11:35:4017653

1 THE COURT: He was a witness in the drug case?

2 MR. TAYLOR: He could have been a potential --

3 THE COURT: Potential.

4 MR. TAYLOR: -- potential witness, but I don't

5 know. He indicated that the person passed away in

6 December. I believe that Mr. Hughes pled in this matter,

7 it was in --

8 THE COURT: It was February second.

9 MR. TAYLOR: That -- that's in relation to the
10 drug case. So, Your Honor, I -- as it relates, and I'll
11 just put this on the record based on him telling me this
12 so that he can be informed, whether that has any bearing
13 on any appellate issues or things of that nature in terms
14 of him pleading then he would have to deal with that issue
15 --

16 THE COURT: Yeah.

17 MR. TAYLOR: -- as it relates to that because,
18 again, I will place on the record, that I was completely
19 unaware that that individual had passed away and whether
20 or not he would have had any potential bearing on a trial
21 or anything of that nature. So, I just wanted to make
22 sure that that was placed on the record since he -- since
23 he just mentioned it to me.

24 THE COURT: Okay.

25 MR. TAYLOR: But, as it relates to moving

111.5/16/2017.11:35:4017654

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1 forward, Judge I guess I'll deal with the more -- the more
2 serious one -- case first and that being the armed robbery
3 charge. I've -- you know obviously I -- I was visiting
4 with Mr. Hughes for six months in relation to dealing with
5 this matter. Obviously we went through three trials
6 before a jury of his peers. They found him guilty. Your
7 Honor, I still believe that despite it all Mr. Hughes has
8 -- and despite his prior criminal history he has a lot of
9 redeemable qualities.

10 He -- we talked in depth about some of his prior
11 criminal history, particularly the assaultive -- assault
12 case. And, in that case, Your Honor, he was actually
13 fortunately coming to the aid of someone at the Oakland
14 County -- while he was incarcerated at the Oakland County
15 Jail. Unfortunately he and two other individual were --
16 were convicted or pled guilty to assault with intent to do
17 great bodily harm. And, so that gives me what I've always
18 known about Mr. Hughes is that despite his past he has an
19 extremely big heart. And, he has some redeemable
20 qualities and I know he's very, very remorseful for
21 finding himself in this position again. And, I guess I'll
22 make that allocution as it relates to both cases, Your
23 Honor, so that I don't have to repeat it. But, I do
24 believe he has a tremendous amount of redeemable
25 qualities.

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1 I read one of the statements that his current
2 fiancé stated and how -- what impact he had on her life
3 and the family's life since he's been involved with them
4 and -- and again I just -- just feel that, you know,
5 although I understand that there was a mandatory 25 year
6 sentence as it relates to the armed robbery charge, if the
7 Court had any discretion, particularly given the fact that
8 the guidelines in this matter are bottom end, 135, I would
9 obviously ask the Court to use some discretion if the
10 Court had discretion. But, again, I do believe he has
11 redeemable qualities where he would be a positive member
12 of our community if he used those attributes in a positive
13 way.

14 And, that's all I have to say at this point in
15 time.

16 THE COURT: Thank you, Mr. Taylor.

17 Ms. Collins, anything from the People on either
18 case?

19 MS. COLLINS: Your Honor, in -- with regard to
20 the narcotics case, I do believe that the recommendation
21 is in accordance with the sentencing agreement that was
22 entered into by the parties with regard to the charges
23 there.

24 As it relates to the armed robbery case, this
25 Court is well versed in the evidence as it relates to this

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1 case having heard this trial on three separate occasions.
2 The victim, Mr. Stites (ph) is in the courtroom and while
3 he doesn't wish to speak personally today, he has always
4 simply wanted the defendant to be held accountable for his
5 actions that day. It was a traumatic event for Mr.
6 Stites, it was a troubling event, and he's out over \$4,000
7 that frankly as a practical matter I'm not sure he'll ever
8 see again. And, that is an extreme hardship on -- on the
9 part of the victim.

10 And, regardless of whether Mr. Hughes has
11 positive attributes, his history and his continued choices
12 speak otherwise. He doesn't just find himself in these
13 situations, he acts and he brings himself to these
14 situations and he's putting others in harm's way in doing
15 so. So, I believe that even if this Court had discretion
16 with regard to the armed robbery case these guidelines
17 allow for -- while they allow for something lower, they
18 also allow for something higher than the 25 years as -- as
19 the minimum.

20 And, with that I don't have anything further to
21 add to the recommendations that are before the Court.

22 THE COURT: Mr. Hughes, anything you'd like to
23 say on either case, obviously it's to both cases, it's
24 your opportunity to allocute, to tell the Court what you'd
25 like prior to sentencing.

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1 THE DEFENDANT: I just want to say thank you for
2 letting me speak my mind. I want to apologize to the
3 Court for these constant mishaps. I want to apologize to
4 my wife, Sue Amber. You've been here with me every day,
5 you know -- you know my heart. I don't do too much trying
6 to get in trouble or something like that, it just -- I
7 made mistakes, you know.

8 And, for Mr. Stites, I never ever wanted to hurt
9 you or be around this type of thing or, you know -- I
10 believe that this is a misfortune for me and you. And, if
11 I could have made it up to him I would. But, I still
12 believe that we went to trial three times and I, you know,
13 I had a -- I got a blessing from having Mr. Taylor
14 representing me.

15 THE COURT: I agree.

16 THE DEFENDANT: I -- also with you, you know, as
17 a Judge. And, I believe in the end it will come out
18 though. But, I do have to have remorse because my family
19 is being involved in him, it's a victim in this situation,
20 and no matter what nobody won. And, I apologize to
21 everybody who I harmed or anything as far as selling dope
22 or anything like that. I beg for the Court to have mercy
23 on my decision as you -- you know, making the decision on
24 my life right now.

25 THE COURT: Mr. Hughes, I don't really have any

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1 opportunity to give you any sort of mercy because I'm
2 bound by what -- what has been filed in this case by the
3 prosecutor and that's a mandatory minimum based on the one
4 case. So, all I can say to you is that you indicated
5 you've made some mistakes but the problem with making so
6 many mistakes is that wind your -- you wind up in a
7 position like you are where you're charged with a habitual
8 as a super habitual with a mandatory minimum and then that
9 leaves everybody with no discretion.

10 THE DEFENDANT: May I ask you one more thing?

11 THE COURT: Go ahead.

12 THE DEFENDANT: My past, the way it is on paper,
13 it's not the way I am. Like he said that was an assault
14 in a county jail. I never caught an assault in society
15 and I was here on a drug case --

16 THE COURT: And, I'm not -- I'm not laying any
17 sort of judgment on any particular case or any particular
18 offense, I'm just saying --

19 THE DEFENDANT: Right.

20 THE COURT: -- that's the history that's led to
21 where you are.

22 THE DEFENDANT: I know, but the majority of my
23 cases are from dope cases, no violent cases. This is --
24 this is out of character right here, but like you say when
25 you pleading guilty and, you know, you're young and you're

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1 trying to get back out things going to happen like that
2 and it's just a build-up. And, it's unfortunate but I
3 understand that you have to rule because we went through
4 trials and we understand everything that's on paper. I
5 understand.

6 THE COURT: Mr. Cramer, these are both -- both
7 dockets are concurrent to each other, correct?

8 MR. CRAMER: That's correct, Your Honor.

9 THE COURT: And, as to the drug case, all those
10 counts are concurrent to each other, correct?

11 MR. CRAMER: That's correct.

12 THE COURT: But, everything's consecutive to
13 parole?.

14 MR. CRAMER: Correct.

15 THE COURT: Okay. All right, the Court having
16 reviewed the Probation Department's report and
17 recommendation as to both cases, each report, recognizing
18 its discretion, recognizing the advisory nature of the
19 guidelines as it relates to the drug case, recognizing the
20 mandatory minimum as to relates to the armed robbery case;
21 as to docket number 2016-260213-FH for counts of
22 manufacture or delivery of controlled substance less than
23 50 grams, counts one and two; count three, controlled
24 substance double penalty; counts four and five, possession
25 analogue; counts six of deliver or manufacture of a

111.5/16/2017.11:35:4017660

1 schedule -- is it one?

2 MS. COLLINS: Yes. It should just say one.

3 THE COURT: All being habitual fourth offender,
4 the Court sentences you according to the Cobbs and the
5 agreement which was as to counts one and two, three to 30
6 years with the Michigan Department of Corrections, zero
7 jail credit; count three, double penalty, one to two years
8 with Michigan Department of Corrections; counts four and
9 five, possession of analogue, two to 15 years with the
10 Michigan Department of Corrections; count six, 3 to 30
11 years with the Michigan Department of Corrections. All
12 zero jail credit, all consecutive to parole, all those
13 counts are concurrent to each other, and this case is
14 concurrent also to the other case 2016-260154-FC. You'll
15 pay Crime Victim's Right fee of \$130, court costs of \$500,
16 state costs of \$340, attorney fees to be determined.

17 As it relates to 2016-260154-FC, on the charge
18 of armed robbery being a super habitual fourth offender,
19 25 to 60 years with the Michigan Department of
20 Corrections, zero jail credit, consecutive to parole
21 violation, concurrent to the other docket 2016-260213-FH.
22 You'll pay restitution in the amount of \$4,270, Crime
23 Victim's Rights fee of \$130, court costs of \$500, state
24 costs of \$68, attorney fees to be determined. You'll have
25 no contact whatsoever with the victim Ronald Stites.

111.5/16/2017.11:35:40:17661

1 Anything else?

2 MS. COLLINS: Nothing on behalf of the People.

3 THE COURT: Mr. Taylor, you acknowledge appellate

4 rights as to both files?

5 MR. TAYLOR: I have, Your Honor.

6 THE COURT: All right, thank you.

7 Thank you, Mr. Taylor for all your work.

8 Good luck Mr. Hughes.

9 THE DEFENDANT: Thank you.

10 (At 3:29 p.m., proceeding concluded.)

11 * * * * *

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STATE OF MICHIGAN)
COUNTY OF OAKLAND)ss.

I certify that this transcript is a true and accurate transcription to the best of my ability of the proceeding in this case before the Honorable Hala Jarbou, as recorded by the clerk.

Proceedings were recorded and provided to this transcriptionist by the Circuit Court and this certified reporter accepts no responsibility for any events that occurred during the above proceedings, for any inaudible and/or indiscernible responses by any person or party involved in the proceeding or for the content of the recording provided.


Dated: May 11, 2017

Kara Van Dam / S. J.

Kara Van Dam, CER #7987

APPENDIX Q
Judgment of Sentence

TII.3/28/2017.1:47:23 78499

STATE OF MICHIGAN 6th JUDICIAL CIRCUIT COUNTY OF OAKLAND	JUDGMENT OF SENTENCE COMMITMENT TO DEPARTMENT OF CORRECTIONS	OAKLAND COUNTY 16-260154-FC  JUDGE HALA JARBOU PEOPLE v HUGHES, KRISTO
---	---	--

ORI: MI-630015J Court Address: 1200 N. Telegraph Rd., Pontiac, MI 48341
Police Report No. 248-452-2000

THE PEOPLE OF THE STATE OF MICHIGAN	V	Defendant's name, address, and telephone no. HUGHES, KRISTOPHER, ALLEN, 106 TASMANIA PONTIAC MI 48342 <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>CTN/TCN</td> <td>SID</td> <td>DOB</td> </tr> <tr> <td>63-16-037328-01</td> <td>1866313J</td> <td>05/09/1979</td> </tr> </table>	CTN/TCN	SID	DOB	63-16-037328-01	1866313J	05/09/1979
CTN/TCN	SID	DOB						
63-16-037328-01	1866313J	05/09/1979						

Prosecuting Attorney Name JESSICA R. COOPER	Bar No. P23242
Defendant Attorney Name RICHARD TERRELL TAYLOR	Bar No. P55237

THE COURT FINDS:

1. The defendant plead / found guilty on 03/01/2017 of the crime(s) stated below:

Count	CONVICTED BY			Crime	CHARGE CODE(S) MCL citation/PACC Code
	Plea	Court	Jury		
1			G	ARMED ROBBERY	750.529

**** SENTENCE ENHANCED PURSUANT TO MCL 769.13(4TH)

*For plea: insert "G" for guilty plea, "NC" for nolo contendere, or "MI" for guilty but mentally ill. For dismissal: insert "D" for dismissed by court or "NP" for dismissed by prosecutor/plaintiff.

- ☐ 2. The conviction is reportable to the Secretary of State under MCL 257.625(20)(b).
☐ 3. HIV testing and sex offender registration is completed.
☐ 4. The defendant has been fingerprinted according to MCL 28.243.

IT IS ORDERED:

- ☐ 5. Probation is revoked.
6. Participating in a special alternative incarceration unit is ☒ prohibited. ☐ permitted.
7. Defendant is sentenced to custody of Michigan Department of Corrections This sentence shall be executed immediately.

Count	SENTENCE DATE	MINIMUM			MAXIMUM			DATE SENTENCE BEGINS	JAIL CREDIT		OTHER INFORMATION
		Years	Mos.	Days	Years	Mos.	Days		Mos.	Days	
1	03272017	025	0	0	060	0	0	03272017	0	0	

- ☒ 8. Sentence(s) to be served consecutively to: (if this item is not checked, the sentence is concurrent)
☐ each other. ☒ case numbers ☒ parole.

9. Defendant shall pay as follows:

\$68.00 FOR STATE MINIMUM COSTS. RESTITUTION: \$4,270.00. IF CASH BOND/BAIL WAS PERSONALLY POSTED BY THE DEFENDANT, PAYMENT TOWARD RESTITUTION IS TO FIRST BE COLLECTED OUT OF THAT BOND/BAIL AND ALLOCATED AS SPECIFIED UNDER MCL 775.22. PAY \$130.00 ASSESSMENT FOR THE CRIME VICTIM RIGHTS FUND. PAY ATTORNEY FEES.

Fines, Costs, and Fees not paid within 56 days of the date of this judgment are subject to a 20% late penalty on the amount owed.

- ☐ 10. The concealed pistol license shall be ☐ suspend for _____ days ☐ permanently revoke the concealed weapon license, permit number _____, issued by _____ County.

11. Court recommendation:

NO CONTACT WITH VICTIM(S). THE DEFENDANT SHALL PAY RESTITUTION, CRIME VICTIM FEES, COSTS, ATTORNEY FEES AND/OR FINES OWING TO THE OAKLAND COUNTY REIMBURSEMENT. CONCURRENT SENTENCE TO 16-260213-FH; \$500 COURT COSTS

TII.3/28/2017.1:47:23 78500

STATE OF MICHIGAN 6th JUDICIAL CIRCUIT COUNTY OF OAKLAND	JUDGMENT OF SENTENCE COMMITMENT TO DEPARTMENT OF CORRECTIONS	CASE NO. 2016-260154-FC
--	--	----------------------------

ORI:MI-630015J Court Address: 1200 N. Telegraph Rd., Pontiac, MI 48341
Police Report No.

Court telephone no:
248-452-2000

THE PEOPLE OF THE STATE OF MICHIGAN
--

V

Defendant's name, address, and telephone no. HUGHES, KRISTOPHER, ALLEN, 106 TASMANIA PONTIAC MI 48342		
CTN/TCN 63-16-037328-01	SID 1866313J	DOB 05/09/1979

Prosecuting Attorney Name JESSICA R. COOPER	Bar No. P23242
--	-------------------

Defendant Attorney Name RICHARD TERRELL TAYLOR	Bar No. P55237
---	-------------------

DATED: 03/27/2017



Under MCL 769.16a the court clerk shall send a copy of this order to the Michigan State Police Criminal History Record
I certify that this is a correct and complete abstract from the original court records. The sheriff shall, without needless delay,
deliver defendant to the Michigan Department of Corrections at a place designated by the department

HON. HALA JARBOU

P55039

Deputy court clerk

MCL 765.15(2), MCL 769.16a, MCL 775.22, MCL 780.766
MCR 6.427(A)

CC219b (6/05) JUDGMENT OF SENTENCE, COMMITMENT TO DEPARTMENT OF CORRECTIONS

Page 2
COURT FILE

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APPENDIX R
Court of Appeals Opinion
September 25, 2018

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KRISTOPHER ALLEN HUGHES,

Defendant-Appellant.

UNPUBLISHED

September 25, 2018

No. 338030

Oakland Circuit Court

LC No. 2016-260154-FC

Before: TUKEL, P.J., and BECKERING and SHAPIRO, JJ.

PER CURIAM.

Defendant, Kristopher Allen Hughes, appeals as of right his conviction of armed robbery, MCL 750.529. Defendant was sentenced as a fourth-offense habitual offender, MCL 769.12, to 25 to 60 years' imprisonment. We affirm.

Defendant's conviction arises from an armed robbery in the early morning hours of August 6, 2016. A prostitute who was seeking to purchase drugs initially called defendant to the victim's residence. At one point, while the victim and the prostitute were engaged in a sexual act, defendant re-entered the residence and pointed a gun at them. Defendant instructed the prostitute to tie up the victim while he searched for the key to the victim's safe. The victim testified that he had about \$4,200 to \$4,300 in the safe at that time. Eventually, he heard the door close twice and realized the defendant and the prostitute had left. The safe also was gone. The victim believed that defendant and the prostitute were acting together to commit the robbery, although she was not charged. At trial, the prostitute claimed that she was not in on the robbery. She acknowledged that she tied the victim up but claimed it was at defendant's direction. She also acknowledged receiving money from defendant afterwards, but claimed that she thought it was "hush" money. The prostitute identified defendant as the robber and said he went by the name of "Killer."

At trial, the prosecution presented several exhibits containing summaries of cellular phone data which was extracted from the phone defendant had in his possession when he was arrested. There was strong proof that the phone was defendant's. In addition to defendant's possession of the phone at the time of his arrest, the prosecution introduced evidence that the phone contained several pictures of defendant, including three "selfies," and numerous messages that contained references to "Kill," "Killa," "Kris," and "Kristopher." The phone data established that there were 19 phone calls on August 6, 2016, the date of the robbery, between

the prostitute and defendant. Further, the records established that they exchanged several text messages between August 5 and August 10, 2016.

I. CELL PHONE CONTENTS/DATA

On appeal, defendant argues that the phone records were obtained unlawfully and in violation of his Fourth Amendment rights, and that they should have been excluded from evidence. We disagree.

We note that defendant challenged the admission of the cellular phone records on grounds that it was stale, irrelevant, and potentially prejudicial. He did not argue below that the search and seizure was illegal. “[A]n objection based on one ground at trial is insufficient to preserve an appellate attack based on a different ground.” *People v Bulmer*, 256 Mich App 33, 35; 662 NW2d 117 (2003). Therefore, this constitutional claim is unpreserved.

The standard of review for an unpreserved constitutional issue is plain error affecting the defendant’s substantial rights. *People v Bosca*, 310 Mich App 1, 47; 871 NW2d 307 (2015). To demonstrate plain error, a defendant must show that (1) an error occurred, (2) the error was clear or obvious, and (3) “the plain error affected [the defendant’s] substantial rights.” *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999). “The third requirement generally requires a showing of prejudice, i.e., that the error affected the outcome of the lower court proceedings.” *Id.* Even if a defendant establishes a plain error that affected his substantial rights, “[r]eversal is warranted only when the plain, forfeited error resulted in the conviction of an actually innocent defendant or when an error seriously affected the fairness, integrity or public reputation of judicial proceedings independent of the defendant’s innocence.” *Id.* at 763-764 (quotation marks, citation, and brackets omitted).

The Fourth Amendment of the United States Constitution and its counterpart in the Michigan Constitution guarantee the right of persons to be secure against unreasonable searches and seizures. US Const, Am IV; Const 1963, art 1, § 11; *People v Kazmierczak*, 461 Mich 411, 417; 605 NW2d 667 (2000). “[A] search for purposes of the Fourth Amendment occurs when the government intrudes on an individual’s reasonable, or justifiable, expectation of privacy.” *People v Antwine*, 293 Mich App 192, 195; 809 NW2d 439 (2011) (citation and quotation marks omitted). “A seizure of property occurs when there is some meaningful interference with an individual’s possessory interests in that property.” *United States v Jacobsen*, 466 US 109, 113; 104 S Ct 1652; 80 L Ed 2d 85 (1984). Whether a search and seizure is lawful depends on whether it is reasonable. *People v Nguyen*, 305 Mich App 740, 751; 854 NW2d 223 (2014). “Whether a search is reasonable is a fact-intensive determination and must be measured by examining the totality of the circumstances.” *People v Mullen*, 282 Mich App 14, 21; 762 NW2d 170 (2008) (quotation marks and citation omitted). Generally, searches conducted without a warrant are unreasonable per se. *Lavigne v Forshee*, 307 Mich App 530, 537; 861 NW2d 635 (2014). An unlawful search involving police misconduct generally requires suppression of the evidence. *People v Hyde*, 285 Mich App 428, 439; 775 NW2d 833 (2009). Thus, absent misconduct, exclusion is inappropriate. *People v Hill*, 299 Mich App 402, 411-415; 829 NW2d 908 (2013).

With regard to cell phones, a warrant generally is required before searching the information contained in a cell phone. *Riley v California*, 537 US ___, ___; 134 S Ct 2473, 2484-2489; 189 L Ed 2d 430 (2014). Here, a search warrant for defendant's phones in an unrelated case involving drug-trafficking was issued and subsequently executed on August 12, 2016. It authorized seizure of any cell phones found and permitted a forensic or manual search, with any data retrieved to be preserved and recorded. Defendant's argument is that the evidence should have been excluded because the warrant was issued with regard to a separate criminal case, and the subsequent analysis of the data in regard to the present armed robbery case constituted a separate search for which no probable cause or warrant existed.

Defendant fails to cite any authority for the proposition that cell phone data lawfully seized for one case cannot be analyzed for another case without a separate warrant supported by probable cause. He also presents no support for the proposition that further analysis of data that already is lawfully in police possession for an unrelated case constitutes police misconduct. We reject defendant's position. The Supreme Court has stated that "[o]nce frustration of the original expectation of privacy occurs, the Fourth Amendment does not prohibit governmental use of the now-nonprivate information." *Jacobsen*, 466 US at 117. Rather, "[t]he Fourth Amendment is implicated only if the authorities use information with respect to which the expectation of privacy has not already been frustrated." *Id.*

Assuming that the initial seizure of the cell phone and data was lawful pursuant to the August 12 search warrant,¹ the question becomes whether the subsequent search of the cell phone requires a separate search warrant. This Court recognizes that "obtaining and examining evidence may be considered a search, provided that doing so infringes an expectation of privacy that society is prepared to recognize as reasonable." *People v Woodard*, 321 Mich App 377, 387; 909 NW2d 299 (2017) (quotation marks and citations omitted). Here, the phone data already had been lawfully extracted from defendant's phone pursuant to the August 12 search warrant. Hence, defendant no longer had a reasonable expectation of privacy related to that data after the execution of the search warrant. See *Jacobsen*, 466 US at 117. The fact that the search warrant was for an unrelated case is not relevant. What is relevant is that defendant's privacy rights were protected and any invasion into his privacy was authorized by a valid search warrant. See *Woodard* at 390 ("[W]e note that the defendant could not plausibly assert any expectation of privacy with respect to the scientific analysis of a lawfully seized item of tangible property . . .") (quotation marks and citation omitted). Accordingly, because defendant had no reasonable expectation of privacy related to his cell phone data after it had been seized and searched pursuant to a valid search warrant, he cannot show how that data's use in this case constituted a violation of his Fourth Amendment rights.²

¹ Defendant does not challenge the validity of that initial search warrant.

² We also reject defendant's argument that defense counsel provided ineffective assistance by failing to object to the introduction of the cell phone data on these Fourth Amendment grounds. As already discussed, defendant's rights were not violated by the use of that data, which had already been obtained pursuant to a valid search warrant. Consequently, any objection would

Defendant's reliance on *Riley v California* is misplaced. The United States Supreme Court in *Riley* held that officers could not search the contents of a cell phone after seizing the phone in a warrantless search incident to arrest. *Riley*, 134 S Ct at 2485. *Riley* is wholly inapplicable for the simple reason that defendant's phone here had been seized and searched pursuant to a valid search warrant. In other words, an arrestee who is subject to a search incident to arrest still has privacy rights that must be protected, and those rights are protected by requiring a search warrant. See *id.* at 2485, 2488-2491. Here, defendant's privacy rights were protected because defendant's phone was specifically seized pursuant to a warrant authorizing the retrieval, preservation, and recording of the data content. Because defendant's reasonable expectation of privacy had been extinguished through the issuance of a valid search warrant, he was not entitled to demand that any subsequent use of the same evidence be supported by a second search warrant. See *Jacobsen*, 466 US at 117 ("The Fourth Amendment is implicated only if the authorities use information with respect to which the expectation of privacy has not already been frustrated.").

II. OPPORTUNITY FOR JURY TO REVIEW TRANSCRIPTS

In his Standard 4 brief, defendant argues that he is entitled to automatic reversal of his conviction because the trial court violated Michigan law by effectively foreclosing the jury's opportunity to review transcripts of witness testimony. We disagree.

MCR 2.513(P) provides as follows:³

If, after beginning deliberation, the jury requests a review of certain testimony or evidence that has not been allowed into the jury room under subrule (O), the court must exercise its discretion to ensure fairness and to refuse unreasonable requests, but it may not refuse a reasonable request. The court may make a video or audio recording of witness testimony, or prepare an immediate transcript of such testimony, and such tape or transcript, or other testimony or evidence, may be made available to the jury for its consideration. The court may order the jury to deliberate further without the requested review, as long as the possibility of having the testimony or evidence reviewed at a later time is not foreclosed.

"A defendant does not have a right to have a jury rehear testimony. Rather, the decision whether to allow the jury to rehear testimony is discretionary and rests with the trial court." *People v Carter*, 462 Mich 206, 218; 612 NW2d 144 (2000). However, when a jury requests to rehear testimony and the trial court instructs the jury in a manner which precludes any possibility of later reviewing that testimony, it errs. *Id.* at 208.

have been futile, and counsel is not ineffective for failing to raise a futile or meritless objection. *People v Ericksen*, 288 Mich App 192, 201; 793 NW2d 120 (2010).

³ We note that defendant's argument on appeal relies on MCR 6.414(H), which was repealed in 2011 and replaced by MCR 2.513(P), which substantively has the same language.

In this case, prior to jury selection, the trial court judge stated the following to the potential jurors:

Now, just as a preliminary matter, if you haven't noticed we don't have a court reporter in this court or actually in this whole courthouse. All the courtrooms in this courthouse are video courtrooms. So, you can see that there are cameras all around and microphones and so everything is recording. Now, I say that to indicate to you that it used to be that we used to get notes from jurors saying can we have transcripts of such and such witness. And, even then when we did have a court reporter, who used to take things down shorthand, it would be difficult obviously to get a transcript to the jury. So, that was usually—we weren't able to do that. So, obviously with a video courtroom we don't have a court report [sic] that can transcribe things. Things—videos will be sent out and then we get transcriptions later.

Defendant argues that these statements “effectively” foreclosed the option of obtaining the transcript and thus constituted error requiring reversal.

As a threshold matter, although the jury sent a number of notes to the trial judge, it never requested to rehear trial testimony. Thus, MCR 2.513(P) was never at issue because it applies only to a “jury request” made “after beginning deliberation.” Moreover, the preliminary instruction given by the trial judge about the length of time it would take to get transcripts, if the jury requested them during deliberations, was simply to reinforce for the jury that it should not rely on the availability of transcripts, and that “I'll allow you to take notes, and if need be -- but otherwise you'll have to rely on your collective memory[.]” In other words, the trial judge was illustrating for the jury the importance of paying close attention to the testimony during the trial, which was entirely appropriate. Furthermore, by making this statement prior to the beginning of testimony, the trial court provided the jury with a warning that the transcripts would not be immediately available, but the court did not foreclose the possibility that transcripts would be available in the future. The trial court committed no error in this instruction.

Even assuming that the trial court's instruction was erroneous, we still would decline to reverse for a new trial. Defendant relies on *People v Smith*, 396 Mich 109; 240 NW2d 202 (1976) (concluding that the harmless error doctrine was inapplicable to preemptive instruction foreclosing rereading of testimony because it resulted in lack of factual basis for review), and *People v Howe*, 392 Mich 670; 221 NW2d 350 (1974) (concluding that the trial court's abuse of discretion in rejecting a reasonable request from the jury required reversal of the defendant's conviction because there was no way to determine from the record the extent of the jury's confusion regarding the requested testimony), in support of his theory that this Court is bound to automatically reverse his conviction. Furthermore, defendant argues that automatic reversal is appropriate under *People v Grant*, 445 Mich 535, 555; 520 NW2d 123 (1994), on the basis that this case falls within “the category of cases . . . where prejudice is presumed or reversal is automatic.” However, these arguments are unavailing because since *Smith*, *Howe*, and *Grant*, the Michigan Supreme Court has recognized that the “automatic reversal rule” relied on in cases involving the jury's ability to review transcripts was superseded by the plain error rule set forth in *Carines*, 460 Mich 750. *People v Tucker*, 469 Mich 903 (2003). Thus, to succeed on this claim of error, which was unpreserved, defendant must affirmatively demonstrate a plain error

affecting his substantial rights. See *People v Vaughn*, 491 Mich 642, 654; 821 NW2d 288 (2012).

A review of the record does not give any indication that the trial court's instruction prior to jury selection had any effect on the outcome of the lower court proceedings. The trial court did not repeat the instruction during the final jury instructions or otherwise refer to the jury's ability or inability to review testimony. There is nothing in the record to suggest that the challenged instruction may have caused the jury to refrain from asking to review trial testimony. Indeed, with each of the 17 jury notes (most of which involved non-substantive issues, such as scheduling) it received during the jury's deliberation, the trial court read the note on the record and informed counsel of the actions taken by the court in response to each request. This included requests for review of the evidence, including a request to replay a recording of the victim's 911 call. A review of the record reflects that the jury did not request to rehear any specific testimony nor was the jury denied any request to review any evidence. Accordingly, defendant has failed to establish any plain error affecting his substantial rights.

Affirmed.

/s/ Jonathan Tukel
/s/ Jane M. Beckering
/s/ Douglas B. Shapiro

APPENDIX S
Pro Per Application for Leave to Appeal

Appendix S - Pro Per Application for Leave to Appeal 460a

Received by MSC via Prisoner E-filing Program on 11/5/2018 at 9:10 AM.

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COVER LETTER

Nov 5, 2018

(Date of mailing to the Supreme Court)

Clerk's Office
Michigan Supreme Court
Hall of Justice
P.O. Box 30052
Lansing, MI 48909

RE: PEOPLE OF THE STATE OF MICHIGAN v Kristopher Allen Hughes
(Print your name)

Supreme Court No. 15865

(Leave blank - the Clerk will assign a number for you.)

Court of Appeals No. 338030

(Get this number from the Court of Appeals decision.)

Trial Court No. 2016-260154-FC

(Get this number from Court of Appeals brief or the
PSI Report.)

Dear Clerk:

Enclosed please find the originals of the documents checked below. (Put a check mark in the boxes of the documents you are sending.) I am indigent and cannot provide four copies.

- ☒ Application for Leave to Appeal
- ☐ Copy of Trial Court decision
- ☒ Copy of Court of Appeals decision
- ☐ PSI Report (required **only** if you raise an issue related to the sentence imposed on your conviction)
- ☐ Transcript of jury instructions (required **only** if you are challenging an instruction on appeal)
- ☒ Motion to Waive Fees / Affidavit of Indigency
- ☒ Proof of Service
- ☐ Other _____

You do not have to provide any briefs filed in the trial court or Court of Appeals

Kristopher Hughes
(Sign your name)

Kristopher A. Hughes #280717
(Print your name and MDOC number)

St. Louis Correctional Facility
(Print name of correctional facility if still incarcerated)

8585 N. Croswell St.
(Print your address or address of correctional facility)

St. Louis, MI 48880

Copy sent to:

Oakland County Prosecutor

INSTRUCTIONS

1. You will need 2 copies and the originals of this letter and the pleadings listed above.
2. Mail the originals of this letter and the pleadings listed above to the Supreme Court Clerk.
3. Mail 1 copy of this letter and the pleadings to the prosecutor.
4. Keep 1 copy of this letter and the pleadings for your file.

Page 1

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TITLE PAGE

INSTRUCTIONS: This application is for use in *criminal* appeals only. If you are appealing a Court of Appeals decision involving a civil action, use the form designed for that appeal type. Answer each question completely and add more pages if necessary.

IN THE MICHIGAN SUPREME COURT**PRO PER CRIMINAL APPLICATION FOR LEAVE TO APPEAL**

I am appealing a Court of Appeals decision that affirmed my conviction(s) and sentence(s) in whole or in part, affirmed the trial court's denial of my motion for relief from judgment, or denied my application for leave to appeal in that court.

PEOPLE OF THE STATE OF MICHIGAN,

Supreme Court No. 15865
(Leave blank)

Plaintiff-Appellee,

v

Court of Appeals No. 338030
(See Court of Appeals decision)Kristopher Allen Hughes
(Print your name)Trial Court No. 2016-260154-FC
(See Court of Appeals decision or PSIR report)

Defendant-Appellant.

I am currently incarcerated in a Michigan, federal, or other state correctional facility. ☒ Yes ☐ No

If Yes, provide the name and address of the correctional facility:

St. Louis Correctional Facility
(Print name of correctional facility)8585 N. Croswell St.
(Print street address of correctional facility)St. Louis, MI 48880
(Print city, state and zip code of correctional facility)

FILING DEADLINE: For incarcerated persons, the application will be accepted as timely filed by the Supreme Court if received on or before the 56-day filing deadline or if it bears a date stamp from the correctional facility's mailroom on or before the filing deadline and (1) the case involves a criminal appeal, (2) you are incarcerated, (3) you are acting without an attorney, and (4) you include a sworn statement identifying the date the papers were given to the correctional facility for mailing to the Court and indicating that first-class postage was prepaid. MCR 7.305(C)(4).

For persons who are not incarcerated, the application must be received by the Supreme Court on or before the 56-day deadline or it will be rejected as untimely. No extensions can be given to the filing deadline.

Received by MSC via Prisoner Filing Program on 11/5/2018 at 9:10 AM.

CRIMINAL PRO PER APPLICATION FOR LEAVE TO APPEAL (cont.)Kristopher Allen Hughes

(Print your name)

Appellant

Court of Appeals No. 338030

INSTRUCTIONS: In the sections below, write out those issues you want to raise in the Supreme Court that were raised in the Court of Appeals in either a brief prepared by your attorney or a supplemental brief that you prepared. To raise new issues, go to page 8.

ISSUES RAISED IN COURT OF APPEALS**ISSUE I:**

A. (Write the issue exactly as it was phrased in the Court of Appeals brief.)

(See Attachment A for issue raised in the Court of Appeals)

B. The Court should review the Court of Appeals decision on this issue because: (Check all the boxes you think apply to this issue, but you must check at least 1.)

- ☐ 1. The issue raises a serious question about the legality of a law passed by the legislature.
☐ 2. The issue raises a legal principle that is very important to Michigan law.
☒ 3. The Court of Appeals decision is clearly wrong and will cause material injustice to me.
☒ 4. The decision conflicts with a Supreme Court decision or another decision of the Court of Appeals.

C. (Explain why you think the choices you checked in "B" apply to this issue. List any cases and state any facts that you want the Supreme Court to consider even if they were not included in your Court of Appeals brief. If you think the Court of Appeals mixed up any facts about this issue, explain below. If you need more space, you may add more pages.)

(See Attachment A)

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CRIMINAL PRO PER APPLICATION FOR LEAVE TO APPEAL (cont.)Kristopher Allen Hughes
(Print your name)

Appellant

Court of Appeals No. 338030**ISSUE II:****A.** (Write the issue exactly as it was phrased in the Court of Appeals brief.)(See Attachment A for issue raised in the Court of Appeals)**B.** The Court should review the Court of Appeals decision on this issue because: (Check all the boxes you think apply to this issue, but you must check at least 1.)

- ☐ 1. The issue raises a serious question about the legality of a law passed by the legislature.
- ☒ 2. The issue raises a legal principle that is very important to Michigan law.
- ☒ 3. The Court of Appeals decision is clearly wrong and will cause material injustice to me.
- ☒ 4. The decision conflicts with a Supreme Court decision or another decision of the Court of Appeals.

C. (Explain why you think the choices you checked in "B" apply to this issue. List any cases and state any facts that you want the Supreme Court to consider even if they were not included in your Court of Appeals brief. If you think the Court of Appeals mixed up any facts about this issue, explain below. If you need more space, you may add more pages.)(See Attachment A)

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RELIEF REQUESTED

9. For the above reasons I request that the Supreme Court grant my application for leave to appeal or order any other relief that it decides I am entitled to receive.

Nov 5, 2018
(Date)

Kristopher Hughes
(Sign your name)
Kristopher Allen Hughes #280717
(Print your name and MDOC number)
St. Louis Correctional Facility
(Print the name of the correctional facility if still incarcerated)
8585 N. Croswell St.
(Print your address or address of the correctional facility)
St. Louis, MI 48880

After this page, you should attach copies of the trial court and Court of Appeals decisions, the PSI Report (if you are raising an issue related to the sentence imposed on your conviction), the jury instructions (if you are raising an issue regarding the instructions), and other documents you want the Supreme Court to consider.

Appendix S - Pro Per Application for Leave to Appeal 465a

Received by MSC via Prisoner Filing Program on 11/5/2018 at 9:10 AM

IN THE MICHIGAN SUPREME COURT

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

Kristopher Allen Hughes
(Print your name)

Defendant-Appellant.

Supreme Court No. _____
(Leave blank)

Court of Appeals No. 338030
(See Court of Appeals decision)

Trial Court No. 2016-260154-FC
(See Court of Appeals brief or PSI Report.)

MOTION TO WAIVE FEES

For the reasons stated in the affidavit of indigency below, I request that this Court GRANT a waiver pursuant to MCR 7.319(C) of all fees required for filing the attached pleading because I am indigent and the provisions of MCL 600.2963 requiring prisoners to pay filing fees do not apply to appeals from a decision involving a criminal conviction.

Nov 5, 2018

(Date)

Kristopher Hughes
(Sign your name)

Kristopher Allen Hughes #280717
(Print your name and MDOC number)

AFFIDAVIT OF INDIGENCY

My name and MDOC number are Kristopher Allen Hughes #280717.

I am incarcerated at St. Louis Correctional Facility in St. Louis, MI 48880.
(Name of correctional facility) (City, state and zip code)

I attest that I cannot pay the filing fee. (Check the boxes that apply to you.)

- ☒ My only source of income is from my prison job and I make \$ _____ per day.
- ☐ I have no income.
- ☒ I have no assets that can be converted to cash.
- ☒ The Court of Appeals waived my fees in that court.

I declare that the statements above are true to the best of my knowledge, information and belief.

Nov 5, 2018

(Date)

Kristopher Hughes
(Sign your name)

Kristopher Allen Hughes #280717
(Print your name and MDOC number)

St. Louis Correctional Facility
(Print name of correctional facility if incarcerated)

8585 N. Croswell St.
(Print your address or address of correctional facility)

St. Louis, MI 48880

Appendix S - Pro Per Application for Leave to Appeal 466a

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Received by MSC via Prisoner Efilng Program on 11/5/2018 at 9:10 AM.

IN THE MICHIGAN SUPREME COURT

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

Kristopher Allen Hughes
(Print your name)

Defendant-Appellant.

Supreme Court No. _____
(Leave blank)

Court of Appeals No. 338030
(See Court of Appeals decision)

Trial Court No. 2016-260154-FC
(See Court of Appeals brief or PSI Report)

PROOF OF SERVICE

On Nov 5, 2018, I mailed by U.S. mail 1 copy of the documents checked below:

- ☒ Application for Leave to Appeal
- ☐ Copy of Trial Court decision
- ☒ Copy of Court of Appeals decision
- ☐ PSI Report (if you are raising an issue related to the sentence imposed on your conviction)
- ☐ Transcript of jury instructions (if you are raising an issue related to a jury instruction at trial)
- ☒ Motion to Waive Fees / Affidavit of Indigency
- ☒ Proof of Service
- ☐ Other: _____

You do not have to provide any briefs filed in the trial court or Court of Appeals

TO: Oakland County Prosecutor
(Name of county)

1200 N. Telegraph Rd.
(Street address)

Pontiac, MI MI 48341
(City) (Zip Code)

I declare that the statements above are true to the best of my knowledge, information and belief.

Nov 5, 2018
(Date)

Kristopher Hughes
(Sign your name)

Kristopher Allen Hughes #280717
(Print your name and MDOC number)

St. Louis Correctional Facility
(Print name of correctional facility if still incarcerated)

8585 N. Croswell St.
(Print your address or address of correctional facility)

St. Louis, MI 48880

Received by MSC via Prisoner E-filing Program on 11/5/2018 at 9:10 AM.

**NOTICE OF FILING APPLICATION
IN THE MICHIGAN SUPREME COURT**

(Mail 1 copy to the Court of Appeals and 1 copy to the trial court)

Nov 5 2018

(Today's Date)

☒ Michigan Court of Appeals
Clerk's Office
Hall of Justice
P.O. Box 30022
Lansing, MI 48909

☒ Oakland County Circuit (Name of Trial Court)
6th Judicial Circuit (Address)
1200 N. Telegraph Rd
Pontiac, MI 48341

PEOPLE OF THE STATE OF MICHIGAN v Kristopher Allen Hughes
(Print your name)

Court of Appeals No. 338030
(Get this number from the Court of Appeals decision)

Trial Court No. 2016-260154-FC
(Get this number from Court of Appeals brief or the PSI Report)

Dear Clerk:

On this date I have filed an application for leave to appeal with the Michigan Supreme Court in the above-captioned matter.

Kristopher Hughes
(Sign your name)

Kristopher Allen Hughes #280717
(Print your name and your MDOC number, if applicable)

St. Louis Correctional Facility
(Print name of correctional facility, if applicable)

8585 N. Croswell St.
(Print your address or address of correctional facility)

St. Louis, MI 48080

Appendix S - Pro Per Application for Leave to Appeal 468a

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Attachment A

Issue I 2

Issue II 9

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ISSUE I

I. The seizure and forensic examination of Mr. Hughes phone were accomplished without a warrant supported by an affidavit. Were the phone records the result of an illegal search and seizure in violation of the United States and Michigan Constitutions requiring a new trial? In the alternative, was Mr. Hughes's trial counsel ineffective for failing to raise constitutional issue?

Standard of Review

Michigan courts review de novo a trial court's ultimate decision on a motion to suppress on the basis of an alleged Constitutional violation. People v Gingrich, 307 Mich App 656, 661 (2014).

Unpreserved claims of nonstructural constitutional error are reviewed for plain error. People v Buie, 285 Mich App 401, 407 (2009)

Argument

In this case, it is undisputed Mr. Hughes phone was seized subsequent to his arrest during the execution of a search warrant on an unrelated drug charge. The warrant was very broad in scope and states that it was "sworn to by the affiant, Detective Matthew Gorman

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... based upon facts stated therein, probable cause having been found in the name of the People of the State of Michigan." The warrant further provides in relevant part that the police can search:

Any and all rooms, spaces, compartments, safes, persons, vehicles, out-buildings and curtilage located in or at the residential dwelling located at 45 W. Beverly Ave., City of Pontiac, County of Oakland, State of Michigan - single story dwelling, located on the south side of W. Beverly AVE and west of Baldwin Ave., the front door faces east The residence consist of tan siding with tan trim, the numbers "45" are located on the siding to the east of the front door.
* * *

It is further ordered that any cell phones or computers or other devices capable of digital or electronic storage seized by authority of this search warrant shall be permitted to be forensically searched and or manually searched, and any data that is able to be retrieved there shall be preserved and recorded. (Attachment B)

Mr. Hughes plead guilty to the charge in that case. (Case No. 2016-260213-FH) An application for leave to

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appeal was filed and rejected by the Michigan Court of Appeals. (Docket No. 339858) None of the data extracted from the phone was used. It was merely retained in the evidence vault of government officials.

The prosecution in this case proceeded and Mr. Hughes was tried twice. The first two trials resulted in a hung jury. Subsequent to the second hung jury, the prosecutor decided to examine the cell phone data retained after Mr. Hughes drug charges had been resolved. This resulted in the cell data at issue being introduced, over objection in Mr. Hughes third trial. (TR 2, pp 212-213)

Due to the guilty plea in the case related to the cell phone's seizure, no challenge had previously been made to the validity of the seizure of the cell phone data at issue, and Mr. Hughes failed to challenge the fact that there was no warrant recent in time or in any way applicable to the instant case which would have allowed the data to be introduced.

In other words, after two trials, the prosecutor had

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failed to get a conviction, and was looking for success in the third trial. Aware that Mr. Hughes cell phone had been seized and searched in another case, and that the data was still available in an evidence archive, he retrieved the data with out obtaining a warrant relating to his current needs. This warrantless info. was introduced at Mr. Hughes 3rd trial, and was relied on heavily in finally obtaining a conviction. (To avoid redundancy Mr. Hughes is only addressing the aspects of this issue that are necessary to illustrate the Court of Appeals mistakes and will incorporate by reference the arguments made in the lower court.)

In Riley v California, 537 US ____; 134 S. Ct. 2473 (2014), the United States Supreme Court held that the police generally, may not, with out a warrant, search digital information on a cell phone seized from an individual who has been arrested. *Id.*, at 134 S. Ct. 2482-2495.

(Note: Officer Janczarek testified that Mr. Hughes was "exiting a vehicle on the property where a warrant

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was being executed." (TR 2 at 192). During that arrest that cell phone was removed from Mr. Hughes person.

Subsequently, a forensic analysis of the phone was conducted.)

In the Court of Appeals Mr. Hughes argued that this circumstance violated the rule set in Riley, supra, and that trial counsel was ineffective for not moving to suppress the data. (See Court of Appeals Brief)

The Court of Appeals, in reviewing this issue asserts that because the cell phone was seized subsequent to an arrest in an unrelated case, and there was a search warrant for the residence where Mr. Hughes was arrested, that the data was properly seized and searched, ergo, the search did not violate Riley, supra. In support of this conclusion the Court of Appeals relies on United States v Jacobsen, 466 US 109 (1984). The Court of Appeals asserted that Jacobsen holds that once a defendant's right to privacy has been violated, the evidence obtained may be used for other matters. (COA Opinion, p 3, see Attachment C)

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The Court of Appeals reliance on Jacobsen is mistaken and allowing their decision to stand will cause material injustice to me. MCR 7.305 (B)(5)(a)

In Jacobsen, *supra*, employees of a private freight carrier examined and opened a damaged package and found a white powdery substance. The employees summoned a federal agent who eventually determined the powder was cocaine. Jacobsen, *supra*, at 111. The question addressed by the court was did the government need to get a warrant before examining the already opened package. *Id.*

The Jacobsen Court explained that the United States Supreme Court has consistently construed 4th Am. protection as proscribing only governmental action stating: "it is wholly inapplicable 'to a seizure, even an unreasonable one, effected by a private individual not acting as an agent of the government or with participation or knowledge of any governmental official. *Id.* at 115. (quoting *Walter v United States*, 447 US 649, 662 (1988).

The Jacobsen Court concluded that as long as the

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the government's search does not "significantly expand on the search that had previously been conducted by the private party it does not run afoul of the 4th Am." Jacobsen, supra, at 116. (Internal quotations omitted)

The facts of Jacobsen sharply contrast with the facts of this case. Here we only have government agents conducting the search. To extrapolate the doctrine that private searches are not subject to 4th Am. challenges onto the facts of this case is manifest injustice.

Mr. Hughes request that this Honorable Court reverse the decision of the Court of Appeals and order the illegally obtained cell data suppressed.

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ISSUE II JURY INSTRUCTION

1 some point tomorrow.
2 Does anyone believe that the length of the
3 trial, which is very short, will be a real hardship for
4 anyone?
5 Okay. Some of you may have health problems that
6 would prevent you from serving on a jury. For example,
7 does anyone have a medical problem that makes you unable
8 to sit for two or three hours at a time or have a sight or
9 hearing problem?
10 And, I did -- do give appropriate breaks and I
11 tell jurors all the time that since I do a lot of sitting
12 in this job you may see me sometimes stand up and just in
13 place -- just to be standing as opposed to sitting. And,
14 so you can obviously do that if you need to stretch at any
15 point, but if any point anyone needs a break just let us
16 know, okay.
17 This is a criminal case. The paper used to
18 charge the defendant with a crime is called an
19 information. The information in this case charges the
20 defendant, Kristopher Allen Hughes, with the crime of
21 armed robbery.
22 And, I'll have Ms. Collins read the information.
23 MS. COLLINS: In the State of Michigan in the
24 Circuit Court for the County of Oakland, the People of the
25 State of Michigan versus Kristopher Allen Hughes. In the

21

1 name and by authority of the People of the State of
2 Michigan, Jessica R. Cooper, Prosecuting Attorney for the
3 County of Oakland who prosecutes for and on behalf of the
4 People of the State of Michigan, appears before the Court
5 and informs the Court that in Oakland County, Michigan,
6 defendant, Kristopher Allen Hughes, on or about August
7 sixth, 2016, did in the course of committing a larceny of
8 a safe use force or violence against a person present
9 and/or assaulted or put in fear a person present, and in
10 the course of that conduct possessed a gun, a dangerous
11 weapon, and/or possessed an article used or fashioned in a
12 manner to lead a person present to reasonably believe the
13 article was a dangerous weapon contrary to the law of the
14 State of Michigan.
15 THE COURT: The defendant has pled not guilty to
16 this charge. You should clearly understand that the
17 information that was just read is not evidence. An
18 information is read in every criminal trial so that the
19 defendant and jury can hear the charges. You must not
20 think that it is evidence of his guilt or that he must be
21 guilty because he has been charged.
22 The person accused of a crime is presumed to be
23 innocent. This means that you must start with the
24 presumption that the defendant is innocent. This
25 presumption continues throughout the trial and entitles

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1 the defendant to a verdict of not guilty unless you are
2 satisfied beyond a reasonable doubt that he is guilty.
3 Every crime is made up of parts called elements.
4 The prosecutor must prove each element of the crime beyond
5 a reasonable doubt. The defendant is not required to
6 prove his innocence or to do anything. If you find that
7 the prosecutor has not proven every element beyond a
8 reasonable doubt then you must find the defendant not
9 guilty.
10 A reasonable doubt is a fair honest doubt
11 growing out of the evidence or lack of evidence. It is
12 not merely an imaginary or possible doubt but a doubt
13 based on reason and common sense. A reasonable doubt is
14 just that, a doubt that is reasonable after and careful
15 and considered examination of the facts and circumstances
16 of this case.
17 Now, just as a preliminary matter, if you
18 haven't noticed we don't have a court reporter in this
19 court or actually in this whole courthouse. All the
20 courtrooms in this courthouse are video courtrooms. So,
21 you can see that there are cameras all around and
22 microphones and so everything is recording. Now, I say
23 that to indicate to you that it used to be that we used to
24 get notes from jurors saying can we have transcripts of
25 such and such witness. And, even then when we did have a

23

1 court reporter, who used to take things down shorthand, it
2 would be difficult obviously to get a transcript to the
3 jury. So, that was usually -- we weren't able to do that.
4 So, obviously with a video courtroom we don't have a court
5 report that can transcribe things. Things -- videos will
6 be sent out and then we get transcriptions later.
7 So, I say that just to say please pay attention
8 and in the end you'll have to rely on your collective
9 memory as to certain things that have occurred or certain
10 witnesses that have testified to things. So, just as a
11 reminder.
12 Let's pick the first batch.
13 We're going to call you by your juror number,
14 okay.
15 THE CLERK: Now filling seat number one, juror
16 number 114. Juror number 114.
17 Filling seat number two, juror number 190.
18 THE COURT: Grant, make sure the numbers match
19 up.
20 THE CLERK: Filling seat number three, juror
21 number 261.
22 Filling seat number four, juror number 49.
23 Filling seat number five, juror number 41.
24 Filling seat number six, juror number 154.
25 Filling seat number seven, juror number 128.

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ISSUE II

II. Michigan Law requires trial judges to provide juries the opportunity to review transcripts when necessary for deliberations. It is plain error for the trial judge to absolutely foreclose the review of transcripts prior to the beginning of deliberations. In this case, was it reversible error to prohibit any possible review of the transcripts prior to the beginning of deliberations?

Standard of Review

Unpreserved errors are generally reviewed under the plain error standard. The plain error test precludes appellate review of unpreserved error "unless the error could have been decisive of the outcome or unless it falls under the category of cases, yet to be clearly defined, where prejudice is presumed or reversal is automatic. People v Grant, 445 Mich 535, 553 (1994)

Argument

There are three important reasons this application should be granted. First, the issue presented here is one that involves a legal principle of major significance to our state's jurisprudence. MCR 7.305(B)(3). Secondly, the decision of the Court of Appeals is clearly

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erroneous and will cause material injustice if allowed to stand. MCR 7.305(B)(5)(a). Third, the decision of the Court of Appeals conflicts with the decisions of this Honorable. MCR 7.305(B)(5)(b).

In this case, prior to deliberations beginning, the trial court communicated to the jury that review of any testimony would not be possible.

Trial Court: "... Now, just as a preliminary matter, if you haven't noticed we don't have a court reporter in this court or actually in this whole courthouse. All the courtrooms in this courthouse are video courtrooms. So, you can see that there are cameras all around and microphones and so everything is recording. Now, I say that to indicate to you that it used to be that we used to get notes from jurors saying can we have transcripts of such and such witness. And, even then, when we did not have a court reporter, who used to take things down shorthand, it would be difficult obviously to get a transcript to the jury. So, obviously -- we weren't able to do that. So, with a video courtroom we don't have a court report (sic) that can transcribe things -- videos will be sent out and then we get transcripts later. (TR 3 at 23-24)

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Traditionally, communicating to a jury that any review of the testimony would be impossible required automatic reversal. See People v Smith, 396 Mich 109 (1976)

Eventually, this Honorable Court overruled automatic reversal rules and articulated a plain error standard which required a reviewing court to analyze all unpreserved errors for prejudice caused. See People v Carines, 460 Mich 750 (1994)

This Court agreed that it was appropriate to apply the plain error standard to a judge denying requests to review transcripts or testimony. See People v Tucker, 469 Mich 403 (2003).

The Court of Appeals, in its decision, in People v Tucker, unpublished opinion, March 4, 2003 (CoA #232094), applied the plain error standard to a situation where the jury sent two notes requesting review of the transcripts. One request concerned a review of a portion of transcripts concerning a charge that the defendant was acquitted of. The second note requested review

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of the ambiguous testimony of the victim. The Court of Appeals concluded that in that circumstance there was neither plain error or prejudice.

The error in that case is differentiated from the type of error that occurred in this case, where the trial court foreclosed any review of the transcripts prior to the beginning of deliberations.

Where the jury request review a portion of the testimony, the discretion whether to grant request rest with the trial court. People v Carter, 462 Mich 206, 218 (2000). When the trial instructs a jury in a way which precludes any possibility of later review of testimony it is plain error. *Id* at 208.

It is Mr. Hughes' position that these two types of errors are substantially different and that this Honorable Court should give direction and explain the difference.

Mr. Hughes agrees that completely appropriate to review the denial of a request to rehear testimony for for an abuse of discretion. This is differentiated from

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the instant scenario where the judge forecloses the possibility of hearing any portion of testimony prior to the beginning of deliberation. In this situation there is no discretion, plain error has occurred. The only question is whether there was sufficient prejudice to require reversal.

Mr. Hughes asserts that, while the automatic reversal rule has been overruled, the court's position concerning prejudice in People v Smith, supra, should still be instructive. In examining the potential prejudice of a trial judge completely prohibiting the possibility of reviewing a portion of the testimony the Smith court explained that it was impossible to speculate as to the impact of this type of error on the jury. The Smith Court reasoned that "it [the jury not being able to request the transcript] could also mean that those jurors who did not remember specific testimony, after being advised that they could not get additional help, allowed themselves to be persuaded by those who did remember. Conjecture about

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what actually went on in the room should not be the basis for determining whether the error was harmless. The fact is we do not know what occurred in the jury room." *Id.*, at 110-111.

Mr. Hughes understands that this Honorable Court has abandoned automatic reversal rules. This does not mean that a presumption of prejudice cannot be applied to this type of plain error. Mr. Hughes understands that in cases where there is overwhelming evidence of guilt even this error would be harmless. However, it is Mr. Hughes position that this Honorable Court needs to direct how this type of error is evaluated, differentiating it from denials of notes from jurors and incorporating some of the logical analysis that this Court articulated in People v Smith, *supra*. (Note: In this case the first two trials resulted in a hung jury. This implies that the evidence was not overwhelming)

The second aspect is the Court of Appeals refusal to acknowledge and evaluate this error as a total

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denial of the possibility of the rehearing of testimony. In support of this position the Court of Appeals implies that the instruction from the court does not say specifically that testimony cannot be reheard but instead it would take a long time, and that the jury never actually requested review of any of the testimony. (Attachment C, p 5)

The trial court, in the preliminary instruction explains that it used to take a long time when there was a court reporter and then explains that in a video courtroom it would not be possible during their deliberations to review testimony.

In this circumstance, we have to assume that the jury did not send any request to the judge because they understood the judge's instruction that review of testimony would not be possible in a "video courtroom."

Finally, the Court of Appeals fails to apply the plain error standard articulated by this Court in People v Carines, 460 Mich 750 (1999). In Carines, this

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Honorable Court stated that in order to succeed on an unpreserved claim of error a defendant must show plain error which affected his substantial rights, and the error must have been prejudicial enough to have rendered the result of the proceeding unreliable.

In this case, the judge did foreclose the rereading of the transcripts. This is err. See People v Carter, at 218. The only question here is, was this error sufficiently prejudicial as to require reversal. The Court of Appeals incorrectly characterized Mr. Hughes argument as "him asserting that this type of error requires automatic reversal. (Attachment C, p 5) This is not Mr. Hughes position. Instead, Mr. Hughes is arguing that this type of error comes with a strong presumption of prejudice. In this case, there were three trials, and guilt rested solely on the testimony of a prostitute who two juries failed to believe. (T2, at 92-139) To preclude the possibility of review of that testimony, in this case, has to be presumed to be prejudicial. The Court of

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Appeals failed to properly apply People v Carines, supra, and for this reason reason their decision should be overturned.

In conclusion, our judiciary is in need of this Court's direction concerning the different standards applicable to a denial of a request from the jury as apposed to a total prohibition on rehearing testimony. Secondly, the Court of Appeals mischaracterization of the trial court's instruction as not forclosing review of testimony needs to be corrected. Finally, the error in instruction in this case was prejudicial.

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Attachment B
Search Warrant
&
Affidavit

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STATE OF MICHIGAN }

S.S. SEARCH WARRANT

COUNTY OF OAKLAND }

TO THE SHERIFF OR ANY PEACE OFFICER OF SAID COUNTY:

THE ATTACHED AFFIDAVIT, having been sworn to by the affiant, Detective Matthew Gorman, before me this day, based upon facts stated therein, probable cause having been found in the name of the people of the State of Michigan, I command that you enter the following described places and vehicles:

All rooms, compartments, spaces and any attic or basement, attached garages, detached garages and all areas within the curtilage of the home; including vehicles, shrubs, trees, gardens, greenery, wood piles, and dog pens accessible there from;

Any and all rooms, spaces, compartments, safes, persons, vehicles, out-buildings and curtilage located in or at the residential dwelling located at 45 W. Beverly Ave, City of Pontiac, County of Oakland, State of Michigan – single story family dwelling, located on the south side of W Beverly AVE and the west of Baldwin Ave, the front door faces east. The residence consists of tan siding with tan trim, the numbers “45” are located on the siding to the east of the front door.

Any and all rooms, spaces, compartments, safes, persons, vehicles, out-buildings and curtilage located in or at the residential dwelling located at 433 Franklin, City of Pontiac, County of Oakland, State of Michigan –single story family dwelling, located on the east side of Franklin St, south of Nevada Ave and the north of Nebraska St, the front door faces west. The residence consists of tan siding with brown trim, the numbers “433” are located on a white mailbox attached to the south side of the front door.

Any and all rooms, spaces, compartments, safes, persons, vehicles, out-buildings and curtilage located in or at the residential dwelling located at 106 N. Tasmania, City of Pontiac, County of Oakland, State of Michigan –single story family dwelling, located on the north /west corner of N. Tasmania and Michigan Ave, the front door faces west onto N. Tasmania. The residence consists of tan/brown brick with white trim, the numbers “106” are located on a white pillar attached to the south side of the front porch.

It is further ordered that a vehicle, 2001 GMC, black in color, bearing MI license plate of DNG9190 be searched.

It is further ordered that any cell phones or computers or other devices capable of digital or electronic storage seized by authority of this search warrant shall be permitted to be forensically searched and or manually searched, and any data that is able to be retrieved there from shall be preserved and recorded.

Therein to search for, seize, secure, tabulate and make return according to law, the following property and things:

Crack Cocaine, and any other illegally possessed controlled substances; any raw material, product, equipment or drug paraphernalia for the compounding, cutting, exporting, importing, manufacturing, packaging, processing, storage, use or weighing of any controlled substance; proofs of residence, such as but not limited to, utility bills, correspondence, rent receipts, and keys to the premises; proofs as to the identity of unknown suspects such as but not limited to, photographs, certificates, and/or diplomas; prerecorded, illegal drug proceeds and any records pertaining to the receipt, possession and sale or distribution of controlled substances including but not limited to documents, video tapes, computer disks, computer hard drives, and computer peripherals; other mail receipts, containers or wrappers; currency, property obtained through illegal activity, financial instruments, safety deposit box keys, money order receipts, bank statements and related records; firearms, ammunition, and all occupants found inside.

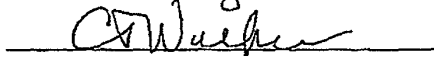
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ISSUED UNDER MY HAND THIS 11th DAY OF August 2016 Time: 2:30^{PM}



Judge in and for the 50th District Court,
County of Oakland, State of Michigan.

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police monitoring equipment, and other items which are proceeds or items which were purchased with the proceeds of the sale of controlled substances. Also to be seized are business, tax, travel and/or financial records.

3. The facts establishing probable cause for the search are:

DETECTIVE BACKGROUND

- a. Affiant is a police officer for the city of Rochester, Rochester City Police Department. Affiant has been assigned to the Oakland County Sheriff's Office Narcotics Enforcement Team for the past nine months and has been employed as a law enforcement officer for the past eight years seven months. Affiant has successfully completed a basic drug investigations course, an advanced roadside interview for drug interdiction, DEA Undercover narcotics school, and advanced undercover narcotics workshop. Affiant has completed the MCOLES basic police academy in Kalamazoo and received an associates degree in Law Enforcement from Kalamazoo Valley Community College. I have been involved in numerous executions of search warrants which resulted in the seizure of controlled substances, cutting material, narcotics growing material, packaging equipment and materials, drug paraphernalia, weighing instruments, narcotic tabulations, electronic communication and telephone codes, maps, and documentary evidence relating to drug trafficking activities. I have also utilized confidential informants, and have been involved in undercover purchases of controlled substances from drug traffickers. I have also been involved in field testing, weighing, and the identification of controlled substances. I know the following to be true, from personal investigation and from information provided to me from fellow investigators/police reports.
- b. Based upon my training and experience involving the concealment of funds and assets from the detection of governmental agencies, I know that drug traffickers maintain books, records, receipts, notes, ledgers and other papers relating to the procurement, distribution, storage, and transportation of controlled substances. These documents include, but are not limited to, records

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showing the phone numbers of customers, the e-mail addresses, text messages, or PIN numbers associated with numbers of customers, the amount of controlled substances "fronted" to various customers along with running totals of debts to customers. Drug traffickers frequently maintain receipts such as credit card billings, parking stubs, hotel reservations/records, airline tickets, gas receipts and various notes. Items used to package controlled substances are also frequently maintained by drug traffickers. It is also common for these traffickers to maintain electronic devices that are used to facilitate their criminal activities, to include, but not limited to, mobile telephones, personal digital assistants, paging devices, answering machines, police scanners and money counters. It is common for drug traffickers to conceal narcotics records, narcotics proceeds and other related items described above within their residences, garages, safety deposit boxes, businesses, automobiles, and on their persons, in order that they may have ready access to these items. Drug traffickers commonly maintain address books and/or telephone numbers in books, papers, and wireless electronic devices that reflect the names, addresses, e-mail addresses, telephone numbers, pager numbers, and/or PINs for electronic communications with their criminal associates in the drug trafficking organization, even if said items are in code.

- c. During the course of my employment with the NET, I have participated in numerous narcotics investigations using various law enforcement techniques, including the use of confidential sources, undercover operations, physical surveillance, electronic surveillance, investigative interviews, and the execution of state and federal search warrants to search locations for controlled substances, related paraphernalia, cultivation and/or manufacturing equipment, indicia, and other evidence relating to violations of the Controlled Substances Act, including violations of State of Michigan controlled substance laws, Michigan Public Health Code. In my capacity as a Detective for the NET, I have personally observed and identified crack cocaine, and have been involved in numerous investigations involving the distribution and processing of crack cocaine.

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- d. I have participated in numerous investigations involving narcotics and controlled substances, including crack cocaine. I have also participated in countless hours of surveillance, observing and recording movements of persons trafficking in drugs and those suspected of trafficking in drugs. I have participated in and/or executed numerous search warrants authorizing the search of locations such as residences, storage facilities, and vehicles related to drug traffickers and their co-conspirators. These investigations have resulted in arrests of numerous individuals, the seizure of illicit drugs and drug-related evidence, and the forfeiture of drug-related assets.
- e. As a result of my experience, I have encountered and have become familiar with the day-to-day operations and the various practices, tools, trends, paraphernalia and related articles utilized by various traffickers in their efforts to cultivate, possess, import, conceal, and distribute controlled substances, including crack cocaine. I have also consulted with and discussed these investigations with numerous officers and agents who are very experienced in these types of investigations.
- f. Based on my training and experience, I am aware that individuals involved in the sale and distributions of controlled substances generate large amounts of United States currency. Proceeds generated from the sale of controlled substances are commonly cash, but in some cases traffickers will accept other property in trade or as payment for controlled substances.
- g. Based on my training and experience, I am aware that, because of the difficulties presented by trying to move large sums of illegal profits into the legitimate financial market, large-scale drug traffickers often collect cash drug proceeds faster than they are able to safely move the drug proceeds into the legitimate financial market because attempting to do so may attract the unwanted attention of law enforcement. Therefore drug traffickers commonly engage in a process of "cash hoarding". Cash hoarding is a process by which the drug trafficker will hide money caches until the funds can be properly funneled into the mainstream legitimate financial

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market with little chance of detection. Based on experience and training, Affiant knows that cash hoarding may involve secreting drug proceeds into a safe or safe deposit box, hidden places within any building or automobile, cavities of furniture or fixtures or structures, burying in the ground, and so on. Affiant also knows that drug traffickers commonly practice cash hoarding to protect their cash drug proceeds from being stolen by other criminals or confiscation and subsequent forfeiture by the government.

- h. Based on my training and experience, I am aware that it becomes common practice for a drug trafficker to disguise the manner in which drug proceeds are obtained, managed and spent by the trafficker. In doing so it is common for a drug trafficker to utilize an alias or multiple aliases, false identities, fictitious information, or witting persons called "nominees" or "straw buyers", or employ the assistance of co-conspirators who act as imposters posing as real people with good reputations and/or credit history. The drug trafficker will commonly place his/her assets, bank accounts, and other things of value in the name of a nominee, straw buyer, imposter, alias or fictitious person or identity to isolate the trafficker from discovery and/or identification by law enforcement, or to otherwise further their criminal acts. Any and/or all of these measures can be used to prevent detection by and prosecution by law enforcement and to prevent forfeiture of those assets by hiding assets belonging to the drug trafficker.
- i. Based on my training and experience, I am aware that the shell corporations is a common method used by a trafficker or drug trafficking organization to disguise, conceal, or to otherwise assert that illegal gains are legitimate income. In many cases drug proceeds are often alleged to be the proceeds of the shell corporation. It is common practice of a drug trafficker to open bank account(s) in the names of shell corporation(s). This practice is done so illegal proceeds can be moved from the illegal financial market into the legitimate financial market.

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4. Based upon your affiants training and experience involving narcotic traffickers and their concealment of funds and assets from the detection of governmental agencies, your affiant knows the following;
 - a. That drug traffickers very often place utilities, registrations, and other assets in names of others than their own to avoid detection by law enforcement and other government agencies.
 - b. That drug traffickers often place residences in other persons' names, although, the traffickers continue to exercise dominion and control over them.
 - c. That it is common for drug traffickers to maintain multiple premises from which their illegal business is conducted. Drug traffickers also store narcotics, narcotics proceeds and records relating to the trafficking of narcotics at their residences and/or businesses and the residences and/or businesses of their relatives and co-conspirators.
 - d. That large scale, narcotics traffickers must maintain on hand, large amounts of US Currency in order to maintain and finance their ongoing narcotics business.
 - e. That drug traffickers maintain books, records, receipts, notes, ledgers, airline tickets, money orders, passports, and other papers relating to the procurement, distribution, storage, and transportation of controlled substances. These records include the telephone numbers of customers, the amount of controlled substances distributed to various customers, along with running totals of debts owed by those customers. They also maintain paraphernalia utilized to cut and package controlled substances. These aforementioned items are commonly maintained in locations to which narcotic traffickers have frequent and ready access, i.e. homes, business, and automobiles.
 - f. That the aforementioned books, records, receipts, notes, ledgers, etc., are maintained where the drug traffickers have ready access to them.

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- g. That it is common for large scale drug traffickers to secrete contraband proceeds of drug sales, and records of drug transactions in secure locations within their residences and/or businesses for ready access and to conceal them from law enforcement authorities.
- h. That persons involved in large scale drug trafficking conceal within their residence and/or business, caches of drugs, large amounts of currency, financial instruments, precious metals, jewelry, automobile titles and other items of value and/or proceeds of drug sales and evidence of financial transactions, or spending of large sums of money acquired from engaging in drug trafficking activities and that these items are also secured in safety deposit boxes.
- i. That when drug traffickers amass large amounts of proceeds from the sales of drugs, the traffickers attempt to legitimize these profits. That to accomplish these goals, drug traffickers utilize domestic and foreign banks and/or financial institutions and their attended services, securities, cashier's checks, money drafts, letters of credit, brokerage houses, real estate, "shell" corporations, and business "fronts." Records of these activities are commonly kept in the drug traffickers' residences and/or businesses.
- j. That drug traffickers commonly maintain addresses, or telephone numbers in books or papers which reflect names, addresses and/or telephone numbers of their criminal associates in drug trafficking.
- k. That during drug transactions, traffickers take or cause to be taken photographs of themselves, their associates, their property and their product. That these traffickers usually maintain these photographs at their residences and/or other properties that they control.
- l. That drug traffickers commonly use electronic equipment to aid them in their drug trafficking activities. This equipment includes, but is not limited to, digital display pagers, mobile

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telephones, electronic telephone books, electronic date books, computers, computer memory disks, money counters, electronic surveillance equipment, eavesdropping equipment, police radio scanners, and portable communication devices.

- m. That drug traffickers commonly possess firearms to protect their assets and narcotics. These firearms are commonly located on subjects person, residence and/or vehicle.
5. During the past 60 days, your Affiant received information from a credible and reliable Confidential Informant [hereafter referred to as CS-1], relative to the narcotic trafficking activities of Kristopher Hughes and Patrick Pankey, CS-1 provided the following information relative to the crack cocaine trafficking activities of Pankey and Hughes. CS-1 advised that PANKEY and HUGHES are members of an organization, arranging the processing and distribution of large scale quantities crack cocaine and other narcotics from local sources to Oakland County for distribution to the local Pontiac area. CS-1 advised that PANKEY and HUGHES are responsible for the local trafficking of the crack cocaine in the Oakland County area.
6. CS-1 informed your affiant that he/she knows from observations of PANKEY and HUGHES, conversations with PANKEY and HUGHES that PANKEY and HUGHES, are distributing/trafficking multi ounce quantities of crack cocaine per week throughout the Oakland County area and that their drug trafficking activities are on-going to presents date. CS-1 explained to your affiant that he/she has observed PANKEY and HUGHES during the past 60 days and as ^{can} recent as within the past 48 hours conduct narcotics trafficking activities in Oakland County, Michigan. CS-1 advised the he has observed and has had conversations with PANKEY and HUGHES that HUGHES is PANKEY's main supplier of narcotics.
7. CS-1 advised that he/she has observed PANKEY and HUGHES at 45 W Beverly Ave, Pontiac, Michigan and has observed over 3 occasions during the past 60 days and as resent as within the

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past 48 hours, where PANKEY and HUGHES were in possession of packaged crack cocaine for sale at this location. CS-1 advised that PANKEY resides at 45 W Beverly Ave, Pontiac, Michigan and has observed crack cocaine in PANKEY and HUGHES possession packaged for sale at this location. CS-1 advised that he/she has observed PANKEY and HUGHES with large amounts of US Currency in their possession and knows from observations and conversations with PANKEY and HUGHES the US Currency in PANKEY and HUGHES possession to be drug proceeds from the sale of crack cocaine. CS-1 advised that he/she has observed during the past 48 hours PANKEY and HUGHES in possession of handguns at the 45 W. Beverly address. CS-1 identified photographs of PANKEY and HUGHES.

8. NET detectives were advised that **HUGHES is currently on parole** through MDOC and identified 433 Franklin, Pontiac, Michigan as HUGHES current registered address from MDOC/parole. NET detectives have conducted surveillance at 433 Franklin, Pontiac, MI within the last 48 hours and have observed the same 2001 GMC Yukon (bearing MI plate of DNG9190) at this residence. CS-1 advised that this vehicle is being driven by HUGHES for the purposes of distributing narcotics to 45 Beverly Ave, Pontiac MI. During controlled purchases of narcotics at 45 Beverly Ave, Pontiac MI this vehicle has been observed by NET Detectives at 45 Beverly Ave, Pontiac MI. During the past 48 hours; HUGHES has been observed by NET Detectives driving the 2001 GMC Yukon (bearing MI plate of DNG9190).
9. Your affiant has conducted multiple controlled purchases of narcotics from PANKEY and with the cooperation of CS-1 over the past 30days and as recent as the past 48 hours at 45 W Beverly Ave, Pontiac MI. Note: HUGHES was present during the last controlled purchase of narcotics (within the past 48 hours) at the 45 W. Beverly, address, and during this narcotic transaction, the CS-1 was made aware that HUGHES was the source of supply of the cocaine from the observations and conversations that the CS-1 had with PANKEY and HUGHES.

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(A) The confidential informant was searched before and after the controlled purchases. The confidential informant immediately returned to the affiant after making the purchase and turned over the substance that had been purchased with pre-recorded investigative funds.

(B) The substance alleged by the informant to be crack cocaine was field tested with a positive result for cocaine utilizing NARK 2 Scott Reagent Modified field testing kit.

(C) The informant was searched immediately before and after making the purchase with negative results.

10. The information provided by CS-1 relative to this investigation (i.e. descriptions of locations, vehicles and persons of interest) has been shown by public databases, law enforcement databases and surveillance to be accurate, in addition to the successful controlled purchases of crack cocaine, and proves CS-1 to be credible. In addition the information that CS-1 has provided to Law Enforcement in the past in reference to other unrelated narcotic investigations have led to over ten State Search Warrants and the seizure of narcotics, firearms and over \$10,000 US Currency, as well as the arrest and conviction of subjects on narcotic and weapon offenses.

PUBLIC DATA BASES/SECRETARY OF STATE RECORDS/MDOC RECORDS

11. Your affiant conducted an inquiry with the Michigan Secretary of State that revealed that PANKEY current Michigan Driver's Licenses issued to him (PANKEY) is registered, at 45 W Beverly Ave, Pontiac, Michigan.
12. During the past 48 hours, your affiant conducted an inquiry with the Michigan Secretary of State that revealed that HUGHES current Michigan Driver's License issued to him (HUGHES) is

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registered at 106 N Tasmania, Pontiac, Michigan. During the past 48 hours your affiant conducted an public data records check (Lexus/Nexus) that revealed that HUGHES is currently associated with 106 N. Tasmania, Pontiac, Michigan. Your affiant also knows from training and experience, that narcotic traffickers commonly utilize several addresses to thwart law enforcement from discovering their true residence, drug stash and distribution locations, as well as traffickers commonly store their assets gained from drug proceeds other residence, such as family members, girlfriends and associates residence in an attempt to hinder law enforcement in locating and seizing such assets.

13. During the past 48 hours, your affiant has contacted an inquiry with MDOC reference HUGHES that revealed the registered MDOC parole address for HUGHES is 433 Franklin, Pontiac MI. Your affiant also knows from training and experience, that narcotic traffickers commonly utilize several addresses to thwart law enforcement from discovering their true residence, drug stash and distribution locations, as well as traffickers commonly store their assets gained from drug proceeds other residence, such as family members, girlfriends and associates residence in an attempt to hinder law enforcement in locating and seizing such assets.

LAW ENFORCMENT DATABASE RECORDS (Criminal History)

14. Your affiant conducted a criminal history that revealed the following;
Reference to; **Patrick Pankey**:
2004- Conviction of possession of marijuana, Southgate Police Department

Reference to **Kristopher Hughes**:
1997- Felony Conviction of possession of controlled substance, Pontiac Police Department

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2008-Felony conviction possession of controlled substance, Pontiac Police Department

2009-Misdemeanor conviction possession controlled substance, OCSO

2013- Felony conviction possession controlled substance, OCSO

Note: HUGHES is currently on Parole with MDOC.

15. Your affiant believes that a search of 45 W Beverly Ave, Pontiac, Michigan, 106 N. Tasmania, Pontiac, Michigan and 433 Franklin, Pontiac, Michigan will result in the seizure of narcotics as well as documentary evidence tending to establish a large scale drug conspiracy. Your affiant contends that a search warrant of the listed locations will result in the seizure of evidence that will greatly assist the NET in the identification of additional co-conspirators, crack cocaine sources of supply, and also to identify crack cocaine customers. Your affiant also believes that a search of the residences will result in the seizure of drug proceeds (cash and assets) obtained through narcotic transactions with PANKEY and HUGHES and others currently unknown. Your affiant knows from his training and experience that drug traffickers sometimes maintain one or more residence for the distribution of narcotics and additional residences for the storage of drug proceeds. Your affiant is aware that drug traffickers often maintain weapons at these locations to protect their drugs and proceeds. Your affiant knows that traffickers sometimes maintain drug paraphernalia and money/drug ledgers at both of these locations in order to facilitate their ongoing drug distribution operation. Your affiant contends that the above listed confidential source information and NET surveillance observations tend to show that PANKEY's residence located at 45 W Beverly Ave, Pontiac, Michigan, and that HUGHES is associated with 45 W. Beverly as well as; 106 N. Tasmania, Pontiac, Michigan and 433 Franklin, Pontiac, Michigan will contain evidence of narcotic trafficking activities such as drug records, drug proceeds and drug paraphernalia.
16. Based on the foregoing, your affiant contends that probable cause exists 45 W Beverly Ave, Pontiac, Michigan, 106 N. Tasmania, Pontiac, Michigan and 433 Franklin, Pontiac, Michigan will


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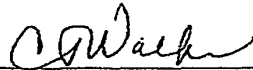
APPENDIX 2

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contain evidence of violations of State of Michigan controlled substance laws and Michigan Public Health Code.



Detective Matthew Gorman, Affiant Subscribed and sworn to before me this ²⁷10th day of August, 2016.



Judge/Magistrate in and for the 50th District Court

County of Oakland, State of Michigan

TIME: 2:30 PM

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Attachment (

Court of

Appeals

Opinion

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STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KRISTOPHER ALLEN HUGHES,

Defendant-Appellant.

UNPUBLISHED
September 25, 2018

No. 338030
Oakland Circuit Court
LC No. 2016-260154-FC

Before: TUKEL, P.J., and BECKERING and SHAPIRO, JJ.

PER CURIAM.

Defendant, Kristopher Allen Hughes, appeals as of right his conviction of armed robbery, MCL 750.529. Defendant was sentenced as a fourth-offense habitual offender, MCL 769.12, to 25 to 60 years' imprisonment. We affirm.

Defendant's conviction arises from an armed robbery in the early morning hours of August 6, 2016. A prostitute who was seeking to purchase drugs initially called defendant to the victim's residence. At one point, while the victim and the prostitute were engaged in a sexual act, defendant re-entered the residence and pointed a gun at them. Defendant instructed the prostitute to tie up the victim while he searched for the key to the victim's safe. The victim testified that he had about \$4,200 to \$4,300 in the safe at that time. Eventually, he heard the door close twice and realized the defendant and the prostitute had left. The safe also was gone. The victim believed that defendant and the prostitute were acting together to commit the robbery, although she was not charged. At trial, the prostitute claimed that she was not in on the robbery. She acknowledged that she tied the victim up but claimed it was at defendant's direction. She also acknowledged receiving money from defendant afterwards, but claimed that she thought it was "hush" money. The prostitute identified defendant as the robber and said he went by the name of "Killer."

At trial, the prosecution presented several exhibits containing summaries of cellular phone data which was extracted from the phone defendant had in his possession when he was arrested. There was strong proof that the phone was defendant's. In addition to defendant's possession of the phone at the time of his arrest, the prosecution introduced evidence that the phone contained several pictures of defendant, including three "selfies," and numerous messages that contained references to "Kill," "Killa," "Kris," and "Kristopher." The phone data established that there were 19 phone calls on August 6, 2016, the date of the robbery, between

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the prostitute and defendant. Further, the records established that they exchanged several text messages between August 5 and August 10, 2016.

I. CELL PHONE CONTENTS/DATA

On appeal, defendant argues that the phone records were obtained unlawfully and in violation of his Fourth Amendment rights, and that they should have been excluded from evidence. We disagree.

We note that defendant challenged the admission of the cellular phone records on grounds that it was stale, irrelevant, and potentially prejudicial. He did not argue below that the search and seizure was illegal. “[A]n objection based on one ground at trial is insufficient to preserve an appellate attack based on a different ground.” *People v Bulmer*, 256 Mich App 33, 35; 662 NW2d 117 (2003). Therefore, this constitutional claim is unpreserved.

The standard of review for an unpreserved constitutional issue is plain error affecting the defendant’s substantial rights. *People v Bosca*, 310 Mich App 1, 47; 871 NW2d 307 (2015). To demonstrate plain error, a defendant must show that (1) an error occurred, (2) the error was clear or obvious, and (3) “the plain error affected [the defendant’s] substantial rights.” *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999). “The third requirement generally requires a showing of prejudice, i.e., that the error affected the outcome of the lower court proceedings.” *Id.* Even if a defendant establishes a plain error that affected his substantial rights, “[r]eversal is warranted only when the plain, forfeited error resulted in the conviction of an actually innocent defendant or when an error seriously affected the fairness, integrity or public reputation of judicial proceedings independent of the defendant’s innocence.” *Id.* at 763-764 (quotation marks, citation, and brackets omitted).

The Fourth Amendment of the United States Constitution and its counterpart in the Michigan Constitution guarantee the right of persons to be secure against unreasonable searches and seizures. US Const, Am IV; Const 1963, art 1, § 11; *People v Kazmierczak*, 461 Mich 411, 417; 605 NW2d 667 (2000). “[A] search for purposes of the Fourth Amendment occurs when the government intrudes on an individual’s reasonable, or justifiable, expectation of privacy.” *People v Antwine*, 293 Mich App 192, 195; 809 NW2d 439 (2011) (citation and quotation marks omitted). “A seizure of property occurs when there is some meaningful interference with an individual’s possessory interests in that property.” *United States v Jacobsen*, 466 US 109, 113; 104 S Ct 1652; 80 L Ed 2d 85 (1984). Whether a search and seizure is lawful depends on whether it is reasonable. *People v Nguyen*, 305 Mich App 740, 751; 854 NW2d 223 (2014). “Whether a search is reasonable is a fact-intensive determination and must be measured by examining the totality of the circumstances.” *People v Mullen*, 282 Mich App 14, 21; 762 NW2d 170 (2008) (quotation marks and citation omitted). Generally, searches conducted without a warrant are unreasonable per se. *Lavigne v Forshee*, 307 Mich App 530, 537; 861 NW2d 635 (2014). An unlawful search involving police misconduct generally requires suppression of the evidence. *People v Hyde*, 285 Mich App 428, 439; 775 NW2d 833 (2009). Thus, absent misconduct, exclusion is inappropriate. *People v Hill*, 299 Mich App 402, 411-415; 829 NW2d 908 (2013).

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With regard to cell phones, a warrant generally is required before searching the information contained in a cell phone. *Riley v California*, 537 US ___, ___; 134 S Ct 2473, 2484-2489; 189 L Ed 2d 430 (2014). Here, a search warrant for defendant's phones in an unrelated case involving drug-trafficking was issued and subsequently executed on August 12, 2016. It authorized seizure of any cell phones found and permitted a forensic or manual search, with any data retrieved to be preserved and recorded. Defendant's argument is that the evidence should have been excluded because the warrant was issued with regard to a separate criminal case, and the subsequent analysis of the data in regard to the present armed robbery case constituted a separate search for which no probable cause or warrant existed.

Defendant fails to cite any authority for the proposition that cell phone data lawfully seized for one case cannot be analyzed for another case without a separate warrant supported by probable cause. He also presents no support for the proposition that further analysis of data that already is lawfully in police possession for an unrelated case constitutes police misconduct. We reject defendant's position. The Supreme Court has stated that "[o]nce frustration of the original expectation of privacy occurs, the Fourth Amendment does not prohibit governmental use of the now-nonprivate information." *Jacobsen*, 466 US at 117. Rather, "[t]he Fourth Amendment is implicated only if the authorities use information with respect to which the expectation of privacy has not already been frustrated." *Id.*

Assuming that the initial seizure of the cell phone and data was lawful pursuant to the August 12 search warrant,¹ the question becomes whether the subsequent search of the cell phone requires a separate search warrant. This Court recognizes that "obtaining and examining evidence may be considered a search, provided that doing so infringes an expectation of privacy that society is prepared to recognize as reasonable." *People v Woodard*, 321 Mich App 377, 387; 909 NW2d 299 (2017) (quotation marks and citations omitted). Here, the phone data already had been lawfully extracted from defendant's phone pursuant to the August 12 search warrant. Hence, defendant no longer had a reasonable expectation of privacy related to that data after the execution of the search warrant. See *Jacobsen*, 466 US at 117. The fact that the search warrant was for an unrelated case is not relevant. What is relevant is that defendant's privacy rights were protected and any invasion into his privacy was authorized by a valid search warrant. See *Woodard* at 390 ("[W]e note that the defendant could not plausibly assert any expectation of privacy with respect to the scientific analysis of a lawfully seized item of tangible property . . .") (quotation marks and citation omitted). Accordingly, because defendant had no reasonable expectation of privacy related to his cell phone data after it had been seized and searched pursuant to a valid search warrant, he cannot show how that data's use in this case constituted a violation of his Fourth Amendment rights.²

¹ Defendant does not challenge the validity of that initial search warrant.

² We also reject defendant's argument that defense counsel provided ineffective assistance by failing to object to the introduction of the cell phone data on these Fourth Amendment grounds. As already discussed, defendant's rights were not violated by the use of that data, which had already been obtained pursuant to a valid search warrant. Consequently, any objection would

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Defendant's reliance on *Riley v California* is misplaced. The United States Supreme Court in *Riley* held that officers could not search the contents of a cell phone after seizing the phone in a warrantless search incident to arrest. *Riley*, 134 S Ct at 2485. *Riley* is wholly inapplicable for the simple reason that defendant's phone here had been seized and searched pursuant to a valid search warrant. In other words, an arrestee who is subject to a search incident to arrest still has privacy rights that must be protected, and those rights are protected by requiring a search warrant. See *id.* at 2485, 2488-2491. Here, defendant's privacy rights were protected because defendant's phone was specifically seized pursuant to a warrant authorizing the retrieval, preservation, and recording of the data content. Because defendant's reasonable expectation of privacy had been extinguished through the issuance of a valid search warrant, he was not entitled to demand that any subsequent use of the same evidence be supported by a second search warrant. See *Jacobsen*, 466 US at 117 ("The Fourth Amendment is implicated only if the authorities use information with respect to which the expectation of privacy has not already been frustrated.").

II. OPPORTUNITY FOR JURY TO REVIEW TRANSCRIPTS

In his Standard 4 brief, defendant argues that he is entitled to automatic reversal of his conviction because the trial court violated Michigan law by effectively foreclosing the jury's opportunity to review transcripts of witness testimony. We disagree.

MCR 2.513(P) provides as follows:³

If, after beginning deliberation, the jury requests a review of certain testimony or evidence that has not been allowed into the jury room under subrule (O), the court must exercise its discretion to ensure fairness and to refuse unreasonable requests, but it may not refuse a reasonable request. The court may make a video or audio recording of witness testimony, or prepare an immediate transcript of such testimony, and such tape or transcript, or other testimony or evidence, may be made available to the jury for its consideration. The court may order the jury to deliberate further without the requested review, as long as the possibility of having the testimony or evidence reviewed at a later time is not foreclosed.

"A defendant does not have a right to have a jury rehear testimony. Rather, the decision whether to allow the jury to rehear testimony is discretionary and rests with the trial court." *People v Carter*, 462 Mich 206, 218; 612 NW2d 144 (2000). However, when a jury requests to rehear testimony and the trial court instructs the jury in a manner which precludes any possibility of later reviewing that testimony, it errs. *Id.* at 208.

have been futile, and counsel is not ineffective for failing to raise a futile or meritless objection. *People v Ericksen*, 288 Mich App 192, 201; 793 NW2d 120 (2010).

³ We note that defendant's argument on appeal relies on MCR 6.414(H), which was repealed in 2011 and replaced by MCR 2.513(P), which substantively has the same language.

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In this case, prior to jury selection, the trial court judge stated the following to the potential jurors:

Now, just as a preliminary matter, if you haven't noticed we don't have a court reporter in this court or actually in this whole courthouse. All the courtrooms in this courthouse are video courtrooms. So, you can see that there are cameras all around and microphones and so everything is recording. Now, I say that to indicate to you that it used to be that we used to get notes from jurors saying can we have transcripts of such and such witness. And, even then when we did have a court reporter, who used to take things down shorthand, it would be difficult obviously to get a transcript to the jury. So, that was usually—we weren't able to do that. So, obviously with a video courtroom we don't have a court report [sic] that can transcribe things. Things—videos will be sent out and then we get transcriptions later.

Defendant argues that these statements “effectively” foreclosed the option of obtaining the transcript and thus constituted error requiring reversal.

As a threshold matter, although the jury sent a number of notes to the trial judge, it never requested to rehear trial testimony. Thus, MCR 2.513(P) was never at issue because it applies only to a “jury request” made “after beginning deliberation.” Moreover, the preliminary instruction given by the trial judge about the length of time it would take to get transcripts, if the jury requested them during deliberations, was simply to reinforce for the jury that it should not rely on the availability of transcripts, and that “I'll allow you to take notes, and if need be -- but otherwise you'll have to rely on your collective memory[.]” In other words, the trial judge was illustrating for the jury the importance of paying close attention to the testimony during the trial, which was entirely appropriate. Furthermore, by making this statement prior to the beginning of testimony, the trial court provided the jury with a warning that the transcripts would not be immediately available, but the court did not foreclose the possibility that transcripts would be available in the future. The trial court committed no error in this instruction.

Even assuming that the trial court's instruction was erroneous, we still would decline to reverse for a new trial. Defendant relies on *People v Smith*, 396 Mich 109; 240 NW2d 202 (1976) (concluding that the harmless error doctrine was inapplicable to preemptive instruction foreclosing rereading of testimony because it resulted in lack of factual basis for review), and *People v Howe*, 392 Mich 670; 221 NW2d 350 (1974) (concluding that the trial court's abuse of discretion in rejecting a reasonable request from the jury required reversal of the defendant's conviction because there was no way to determine from the record the extent of the jury's confusion regarding the requested testimony), in support of his theory that this Court is bound to automatically reverse his conviction. Furthermore, defendant argues that automatic reversal is appropriate under *People v Grant*, 445 Mich 535, 555; 520 NW2d 123 (1994), on the basis that this case falls within “the category of cases . . . where prejudice is presumed or reversal is automatic.” However, these arguments are unavailing because since *Smith*, *Howe*, and *Grant*, the Michigan Supreme Court has recognized that the “automatic reversal rule” relied on in cases involving the jury's ability to review transcripts was superseded by the plain error rule set forth in *Carines*, 460 Mich 750. *People v Tucker*, 469 Mich 903 (2003). Thus, to succeed on this claim of error, which was unpreserved, defendant must affirmatively demonstrate a plain error

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affecting his substantial rights. See *People v Vaughn*, 491 Mich 642, 654; 821 NW2d 288 (2012).

A review of the record does not give any indication that the trial court's instruction prior to jury selection had any effect on the outcome of the lower court proceedings. The trial court did not repeat the instruction during the final jury instructions or otherwise refer to the jury's ability or inability to review testimony. There is nothing in the record to suggest that the challenged instruction may have caused the jury to refrain from asking to review trial testimony. Indeed, with each of the 17 jury notes (most of which involved non-substantive issues, such as scheduling) it received during the jury's deliberation, the trial court read the note on the record and informed counsel of the actions taken by the court in response to each request. This included requests for review of the evidence, including a request to replay a recording of the victim's 911 call. A review of the record reflects that the jury did not request to rehear any specific testimony nor was the jury denied any request to review any evidence. Accordingly, defendant has failed to establish any plain error affecting his substantial rights.

Affirmed.

/s/ Jonathan Tukel
/s/ Jane M. Beckering
/s/ Douglas B. Shapiro

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ISSUED UNDER MY HAND THIS 11th DAY OF August 2016 Time: 2:30^{PM}

CT Walker

Judge in and for the 50th District Court,

County of Oakland, State of Michigan.

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APPENDIX T
Supreme Court Order
November 1, 2019

Order

November 1, 2019

158652 & (49)

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

KRISTOPHER ALLEN HUGHES,
Defendant-Appellant.

Michigan Supreme Court
Lansing, Michigan

Bridget M. McCormack
Chief Justice

David F. Viviano
Chief Justice Pro Tem

Stephen J. Markman
Brian K. Zahra

Richard H. Bernstein

Elizabeth T. Clement

Megan K. Cavanagh,
Justice

SC: 158652

COA: 338030

Oakland CC: 2016-260154-FC

By order of June 12, 2019, the prosecuting attorney was directed to answer the application for leave to appeal the September 25, 2018 judgment of the Court of Appeals. On order of the Court, the answer having been received, the application for leave to appeal is again considered. We direct the Clerk to schedule oral argument on the application. MCR 7.305(H)(1). We further order the Oakland Circuit Court to appoint the State Appellate Defender Office to represent the defendant in this Court.

The appellant shall file a supplemental brief within 42 days of the date of the order appointing counsel, addressing: (1) whether the probable cause underlying the search warrant issued during the prior criminal investigation authorized police to obtain all of the defendant's cell phone data; (2) whether the defendant's reasonable expectation of privacy in his cell phone data was extinguished when the police obtained the cell phone data in a prior criminal investigation; (3) if not, whether the search of the cell phone data in the instant case was within the scope of the probable cause underlying the search warrant issued during the prior criminal investigation; (4) if not, whether the search of the cell phone data in the instant case was lawful; and (5) whether trial counsel was ineffective for failing to challenge the search of the cell phone data in the instant case on Fourth Amendment grounds. In addition to the brief, the appellant shall electronically file an appendix conforming to MCR 7.312(D)(2). In the brief, citations to the record must provide the appendix page numbers as required by MCR 7.312(B)(1). The appellee shall file a supplemental brief within 21 days of being served with the appellant's brief. The appellee shall also electronically file an appendix, or in the alternative, stipulate to the use of the appendix filed by the appellant. A reply, if any, must be filed by the appellant within 14 days of being served with the appellee's brief. The parties should not submit mere restatements of their application papers.

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The Prosecuting Attorneys Association of Michigan and the Criminal Defense Attorneys of Michigan are invited to file briefs amicus curiae. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae.



b1029

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 1, 2019

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk