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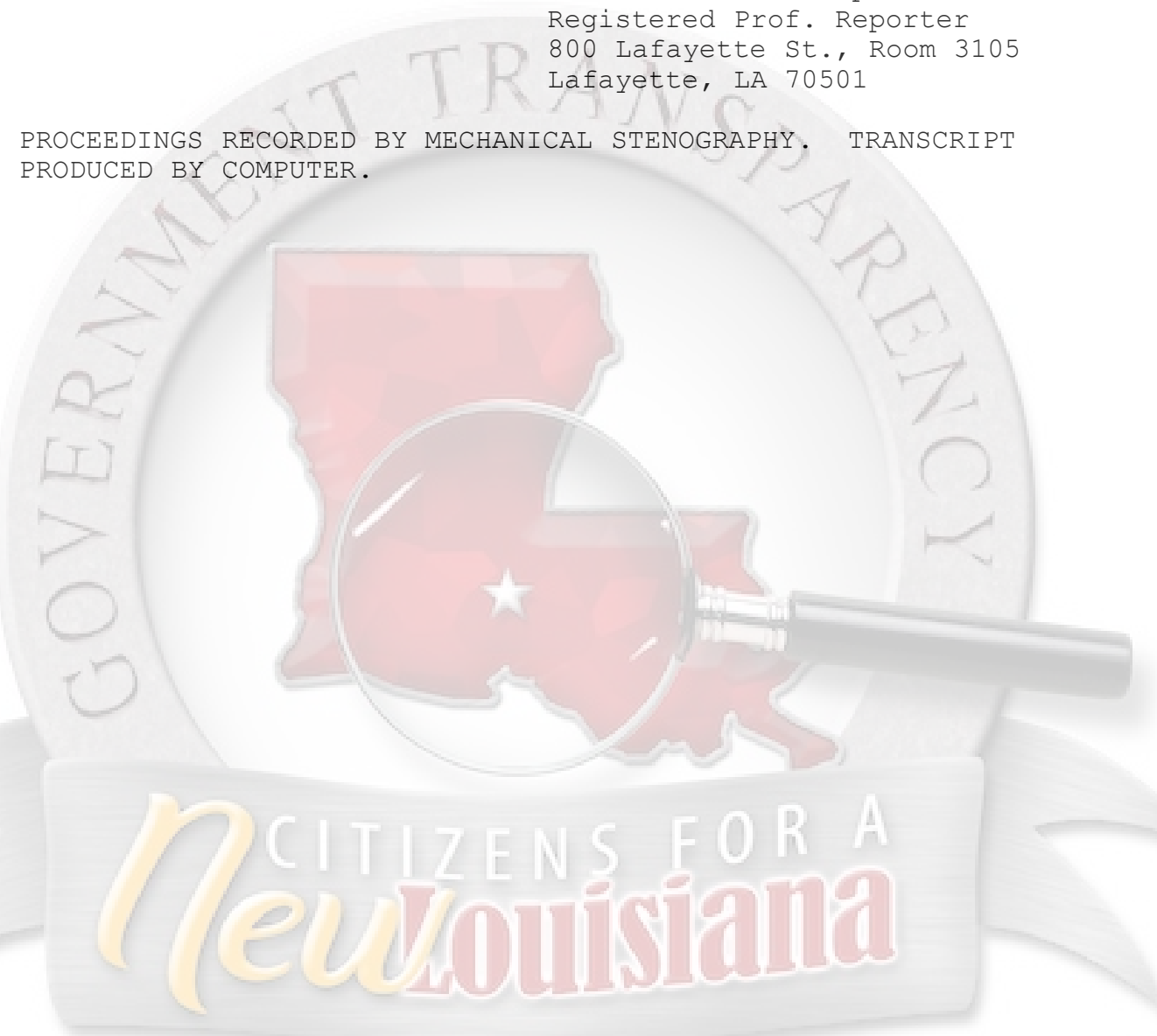
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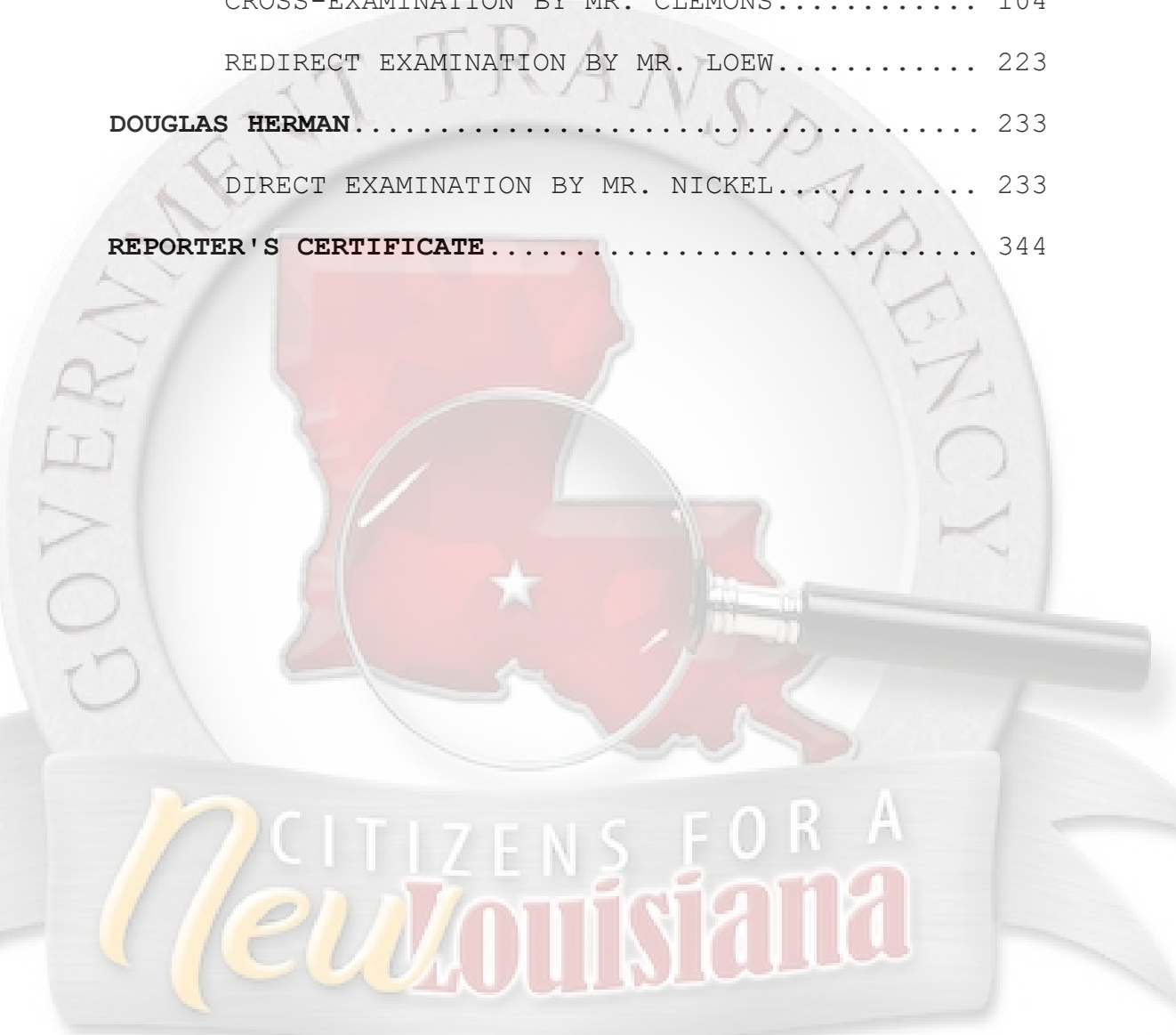
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1 in chief, or even you think additional parts need to be entered
2 into evidence because to correct or to supplement something that
3 was previously entered by the Government, then I'm amenable to
4 hearing that. But right now I can't do anything with this motion.
5 I'm certainly not -- we're certainly not going to play the entirety
6 of all the recordings to the jury. You haven't made the showing
7 that's necessary. So anything else to say?

8 **MR. JOHNSON:** Your Honor, I do think that there was an
9 objection to some other crimes evidence that was specifically
10 listed, specifically dealing with whenever he -- I think it's
11 alleged that he admits to carrying \$10,000 and giving it to an
12 elected official. I think I specifically identified that as
13 objected to that. I understand, Your Honor --

14 **THE COURT:** Can you turn me to which page in the 68-page
15 attachment you included here?

16 **MR. WALKER:** Your Honor, just so that I can move this
17 along. If you go to page 10 and 11 of the very long transcript, I
18 think that's what he's talking about.

19 **THE COURT:** Page 10 and 11. Talking about getting a cup
20 of coffee is where the Government's proposed recording cuts off;
21 right?

22 **MR. WALKER:** That is basically. Wait. Let me just see.
23 Page 10 and 11.

24 **THE COURT:** "We'll get a cup of coffee."

25 **MR. WALKER:** Are you on --

1 **THE COURT:** Oh, I'm on --

2 **MR. WALKER:** I think you're on a different transcript.

3 **THE COURT:** Which one are we talking about?

4 **MR. WALKER:** On theirs, it's 111-3.

5 **THE COURT:** It's the third exhibit, okay. The 44-page
6 exhibit?

7 **MR. WALKER:** The 44-page exhibit, that's correct.

8 **THE COURT:** What page is it?

9 **MR. WALKER:** It's page 10 and 11, is the thing they're
10 complaining about. I have a response, by the way.

11 **THE COURT:** Okay. Mr. Johnson, is this what you're
12 talking about?

13 **MR. JOHNSON:** I am, Your Honor. He's basically saying
14 I've done it. I've done it. I've carried the \$10,000 whatever. I
15 think that's other crimes evidence. I don't think it serves to
16 advance the conspiracy at all. I think it's overly prejudicial and
17 should be removed.

18 There's that, and me and Luke talked earlier, but there's
19 another portion, and I'll direct your attention to that, where he
20 says, he uses the term "bitch" when referring to a staff member.
21 And I think that should come out. I think that's just entirely
22 unnecessary and prejudicial.

23 **THE COURT:** That's in the first attachment, I think,
24 isn't it?

25 **MR. JOHNSON:** Exhibit 5.

1 **THE COURT:** In Exhibit 5?

2 **MR. JOHNSON:** I'm sorry, Exhibit D, Your Honor.

3 **MR. WALKER:** D? I don't think there is an Exhibit D.

4 **THE COURT:** Well, let's deal with the first objection,
5 and that is that you think the Exhibit 3, pages 10 and 11, the
6 portions the Government wishes to introduce from that recorded
7 exchange is indicative of other crimes evidence; is that right?

8 **MR. JOHNSON:** Yes, Your Honor. He says, "I've done it.
9 I've done it. I've carried the bag." He is talking about some
10 previous circumstance. It doesn't -- it's not relevant. I think
11 it comes across as though he is potentially admitting to a crime in
12 Louisiana law, if true, and it has nothing to do with the case and
13 was not included in the notice provided by the Government of other
14 crimes evidence. I don't think it's -- I think it's completely
15 unnecessary.

16 **MR. WALKER:** Your Honor, this is the single most
17 compelling -- well, it's one of many, but it is a compelling
18 evidence of their conspiracy together to engage in the conduct.
19 "I've carried money for one of the supporters, you know what I
20 mean? I trust you because we're in this together, you know. I
21 don't tell other people about it. I'm trusting you because I know
22 I can trust you because, you know, you have -- we have some secrets
23 to share. But I'm serious."

24 I mean, that is direct evidence of the conspiracy. If
25 the defense wants an instruction that there's no independent

1 evidence of the \$10,000, he said that he gave \$10,000. He said he
2 gave that, or he carried that, and he did it to support his
3 connection with this person. To remove that would make -- then it
4 would be, "I've had...you know what I mean, because I trust you
5 because we're in this together." It would make the remainder,
6 which is just extraordinarily compelling evidence of them
7 conspiring together to engage in the conduct, confusing and it
8 would be impossible to really understand.

9 **THE COURT:** Who is CHS? Who's CHS?

10 **MR. WALKER:** That's Leonard Franques. Leonard Franques,
11 the coconspirator, is CHS. They attached the -- when the --
12 originally, when this consensual recording was created, because he
13 was a cooperating person, they put "CHS," but it's Leonard
14 Franques.

15 **MR. JOHNSON:** To respond, Your Honor. The section that I
16 want out, the talking about "I carried the bag. I did it, I
17 carried the \$10,000." That can be eliminated, and we can still
18 have the portion there that says, "I trust you. You've got secrets
19 in here with me." There's no reason that the \$10,000 campaign --
20 you know, alleged illegal campaign donation should exist in that.
21 It does not offer any probative value. He can still have the part
22 he wants about secrets. That's not what I'm -- I'm saying, "I did
23 it, I did it. I've carried the money," that's completely
24 unnecessary.

25 **MR. WALKER:** That's the secret he's talking about. He's

1 giving him this -- he's giving him this thing that he's done so
2 that they can trust each other and have secrets together, which is
3 the essence of the conspiracy.

4 **THE COURT:** Is there any theory the Government has about
5 what this \$10,000 carrying money episode refers to? Do we know
6 from the conversations?

7 **MR. WALKER:** We don't care. No, and I mean, this is the
8 only time. He meets, he's talking to him in Jason's Deli, and he
9 tells him that specifically.

10 **MR. JOHNSON:** Judge, it's a war story in the context of
11 the recording. It's saying something I have done way a long time
12 ago in the past. It has nothing to do with this case. That's why
13 I think, they can't answer that question. It serves -- it has
14 absolutely no probative value at all and can be excised and he can
15 keep the part he wants about secrets.

16 **THE COURT:** Yeah, I think the probative value, as I
17 understand the Government's argument, is that it shows the lengths
18 to which he is willing to go to build on their alleged conspiracy
19 and that you can trust him because he's done it before.

20 So what's the response to that?

21 **MR. JOHNSON:** I don't think that's the context, and I
22 think -- I certainly understand that's an argument because that's
23 the argument you'd make if you wanted to get it in. Contextually,
24 that's not what happening in the recording at that moment.

25 **THE COURT:** All right. (Reading.) I think I agree with

1 Mr. Johnson. Can we excise the sentence [as read], "I've carried
2 money, 10,000 for one supporter. You know what I mean?" Just that
3 one sentence. Because we don't know what that means. It does have
4 -- I don't think there's a coherent theory about how that fits into
5 this case, and I think that it could be interpreted negatively by
6 the jury without just cause for doing so.

7 **MR. WALKER:** So the thing that I'm going to -- we will
8 excise is [as read], "I've carried for a -- for a constituent
9 \$10,000 cash and supported to be a campaign contribution"; right?

10 **MR. JOHNSON:** I would like the "I've done it."

11 **THE COURT:** There's two places where the money is talked
12 about in the recording. There is -- he says [as read], "I've had
13 -- I've had carried money \$10,000 for one supporter. You know what
14 I mean?" That's on the top of page 11. And then the last one is
15 [as read], "For a constituent \$10,000 cash and supposed to be a
16 campaign contribution"; right? So which part are you objecting to?

17 **MR. JOHNSON:** That part. The one you just described,
18 Your Honor, where he says [as read], "I've done it. I've carried
19 the money." It's both before and in the middle. And it can be
20 excised very, very clearly without any issue with the, you know,
21 hey, "We both have some skin in the game," what he says next. "We
22 both have secrets. I trust you."

23 I get why they would want to put that in there. I'm just
24 suggesting the "I've carried the bag. I've done it. I've taken
25 the \$10,000," that is just completely unnecessary.

1 **THE COURT:** "Because you have some secrets to share. But
2 I'm serious, I've carried for --"

3 **MR. WALKER:** Your Honor, the only -- so then the second
4 half of this doesn't make any sense. I mean, by removing that,
5 it's removing what he gave so that it gave his part of the thing to
6 demonstrate that they were in this together and trusting each
7 other.

8 **MR. JOHNSON:** It does make sense when you listen to it.
9 He's just, again, he's just referring to -- it's like a war story
10 about helping an elected official in the past. It is not relative
11 to this -- it's not relevant at all to the case.

12 **THE COURT:** All right. So let's start with the second
13 part [as read], "But I'm trusting you because I know -- I know I
14 can trust you, you know, because you have some secrets to share,"
15 period? "I trust you because you have some secrets to share."

16 **MR. WALKER:** What about "but, but I'm serious"? "We have
17 secrets to share. I'm serious." It still is --

18 **THE COURT:** All right. So you're saying this is other
19 crime curative evidence? That's your contention?

20 **MR. JOHNSON:** That's correct, Your Honor. It is
21 admitting to -- if that's true, that's a crime. It's certainly a
22 prior bad act.

23 **THE COURT:** "Supposed to be a campaign contribution."

24 **MR. JOHNSON:** He says, "I've carried money, \$10,000 for
25 one supporter. You know what I mean?"

1 **THE COURT:** Yeah, I don't think anybody knows what that
2 means, much less Mr. Haynes or Mr. Franques.

3 **MR. WALKER:** If that's the case, then it's not other
4 crimes evidence. I mean, it has to be evidence --

5 **THE COURT:** Well, it's saying he's done things, you know
6 -- an inference could be that he's done something that -- he's put
7 his neck out for somebody else, is what he's trying to say and he
8 would do it for Mr. Franques.

9 **MR. WALKER:** Which is exactly the -- that is exact
10 evidence of him conspiring and him being a part of this conspiracy.
11 He's willing to do his part in this conspiracy.

12 **MR. JOHNSON:** I believe if Your Honor actually hears that
13 portion, I believe Your Honor is going to see it like I see it and
14 see him talking about an old war story, not trying to develop
15 trust. He's just talking about something in the past that's
16 happened, about how donations used to be done. That is other
17 crimes evidence. It's completely irrelevant, and it can be excised
18 and you still get, "We both have secrets. I trust you. We're in
19 this." Like, you get all of the same substance and you remove the
20 other crimes evidence.

21 **THE COURT:** I'll listen to it, Mr. Johnson. When are we
22 going to put this on?

23 **MR. WALKER:** Your Honor --

24 **MR. NICKEL:** What's the exhibit number?

25 **MR. WALKER:** This is 003. We're not putting it on until

1 the end; correct?

2 **MR. NICKEL:** I just need the full exhibit number.

3 **MR. WALKER:** 003-009.

4 **MR. NICKEL:** Slim chance it comes in today, Judge.

5 **THE COURT:** I'll listen to it over lunch, and we'll bring
6 it back up.

7 **MR. JOHNSON:** Your Honor, one of the exhibits -- I think
8 it's Government's Exhibit 005-003 -- our Exhibit D to our motion,
9 at page 14, we mentioned --

10 **THE COURT:** Exhibit 4, you mean?

11 **MR. WALKER:** There is no Exhibit D.

12 **THE COURT:** There's a 4. So what page is it?

13 **MR. JOHNSON:** It was labelled, I think.

14 **MR. WALKER:** I would note before he goes on, we excised
15 some of the things from this transcript because we felt like that
16 they didn't -- they were -- they weren't admissible in terms of it
17 was just a statement of the defendant that was irrelevant, and the
18 defense has suggested that that's a part of the call, which it's
19 not.

20 **MR. JOHNSON:** Your Honor, I just wanted to point out with
21 respect to that --

22 **THE COURT:** What page?

23 **MR. JOHNSON:** Page 14.

24 **THE COURT:** Page 14 of Exhibit 4?

25 **MR. JOHNSON:** I'm going to say yes.

1 **THE COURT:** It's attached as Exhibit 4. I'm assuming
2 that's D. All right. "There's a lot of people that really like
3 him," starting there?

4 **MR. JOHNSON:** Yes. That's correct, Your Honor. The next
5 paragraph, it says, "It's too hot, you know, but as far as these
6 gossiping bitches at the office."

7 **MR. WALKER:** Specifically complaining about the fact that
8 they are complaining about Dusty Guidry.

9 **THE COURT:** I don't see that that's outside of the --
10 it's kind of mainstream wire-type conversations that's presented
11 all the time in federal court.

12 **MR. JOHNSON:** That's okay. I just felt that the female
13 jury, the term bitch just might be unnecessarily --

14 **THE COURT:** Yeah, we don't like -- I don't think anybody
15 here likes that term, but I don't see that it's so inflammatory
16 that it's going to derail the defense or the Government.

17 **MR. JOHNSON:** I understand, Your Honor. I understand
18 what you're saying. That same exhibit, I believe, we redlined for
19 Your Honor on pages 9 and 10.

20 **THE COURT:** 9 and 10?

21 **MR. JOHNSON:** Yes, Your Honor.

22 **THE COURT:** I don't see any underlines.

23 **MR. JOHNSON:** No. It's redlined. It's in red. We
24 highlighted in red.

25 **THE COURT:** I don't have a color printer.

1 **MR. JOHNSON:** Oh, okay. My bad.

2 **THE COURT:** I work for the government, Mr. Johnson.

3 **MR. JOHNSON:** I will tell you this. It starts on page 9
4 where it says, "I'm starting to feel a little bit easier about it."

5 **THE COURT:** All right. I see that.

6 **MR. JOHNSON:** And it goes from there until the beginning
7 of the part that we have highlighted. And you do have what we have
8 highlighted?

9 **THE COURT:** So you're saying you want that added?

10 **MR. JOHNSON:** That's correct, Your Honor. They're
11 talking about the same exact thing. It's just --

12 **MR. WALKER:** May I respond, Your Honor?

13 **THE COURT:** Yeah, but let him finish the reasons why he
14 thinks that fits into Rule 106.

15 Go ahead, Mr. Johnson.

16 **MR. JOHNSON:** So the way that this audio is done is it is
17 clipped up from piece to piece and I believe it's taken out of
18 order, in addition to that, the way the Government is presenting
19 it. But this portion is immediately prior to this portion, is
20 directly relevant to it, and should be considered at the same time
21 as the rest of the clip.

22 **THE COURT:** So you think it should be included why?
23 Substantively speaking, why?

24 **MR. JOHNSON:** Because if they're talking about what
25 they're talking about and you remove part of the context, you can

1 make it appear more incriminating than it is. And that's not --

2 **THE COURT:** Well, I know that's the rule of completeness.
3 But what specifically about the portion you want to include makes
4 it a more fair statement of this recording?

5 **MR. JOHNSON:** Yeah. They're talking directly about Don
6 wanting to revenue share, Your Honor, and he's also making it
7 clear, like, hey, I want to be paid back. I've given -- I've paid
8 \$219,000. I just want to get paid back first. You'll see that
9 that's a big part of our defense. We mention that in opening
10 argument. This is him saying, hey, I have come out of pocket. I
11 want my money back. To just make it about, oh, I'm trying to -- if
12 you read the section that they have, it leaves that out and it
13 takes out context.

14 He's also saying that, hey, I don't think there is going
15 to be any evidence whatsoever of Dusty, you know, receiving money,
16 getting paid, you know, for cases to dismiss cases. They're
17 literally talking about the same -- if you were going to clip a
18 conversation, you would include this portion of that conversation
19 or else you would be taking it out of context.

20 **THE COURT:** I'm reading it. What's the Government's
21 position on that?

22 **MR. WALKER:** First of all, they're talking about
23 different things. The portion that's clipped is talking about the
24 PTI, and this is talking about dismissals of cases and also talking
25 about revenue sharing that is not -- it's not -- he can't revenue

1 share with the vendors, but this is not talking about his revenue
2 sharing. This is talking about district attorney's office revenue
3 sharing. I think when you add in this, it just becomes confusing,
4 and I don't see any reason how this -- this further explains the
5 section that we've clipped. If you read the two things together
6 and then you read the two things separately, they receive no
7 benefit in adding in the portion that they've got in red.

8 **THE COURT:** From my reading of the transcript, it does
9 appear so. They're talking about revenue sharing, Dusty Guidry.
10 It ends with [as read], "What's he do with all his money?"

11 "Keeps it. I'm sure he shares some with Dusty, too."
12 Mumble, mumble, yeah.

13 "You know I sent some stuff to you today from court."

14 "Oh, you did?"

15 It seems like they're shifting gears there at that point.
16 So I guess I just don't understand what you're saying -- how this
17 makes it a more fair statement -- from the portion that the
18 Government's highlighted that they want to play.

19 **MR. JOHNSON:** Your Honor, because if you go in and you
20 excise anything my client says that benefits his case and you only
21 include those sections that harm, you know, his case, then you
22 don't understand that this is a conversation from here to here.
23 I'm not asking to play the whole thing. I'm saying understand how
24 this conversation happens. This is just two human beings just
25 having a conversation. So when you go and slice it up, you lose

1 that context.

2 It's the same thing we argue later where they only have
3 just a portion of the conversation. So when you emphasize just a
4 small section of the conversation, it's as if that's all they
5 talked about right then; that they weren't having other
6 conversations at all. This is immediately prior, and it's
7 something that directly benefits prior to this. They're talking
8 about what their agreement is.

9 **THE COURT:** Right. The rule of completeness allows me to
10 add, in contravention of the rule of hearsay, it allows me to add
11 portions to a statement of a party opponent, your client, an
12 admission for the purpose of making sure the jury understands the
13 entire context of the conversation and that it's not misconstrued
14 by the Government. Okay? It does not allow me just to put in
15 portions that might be favorable to your client, which is I think
16 is what you are suggesting.

17 **MR. JOHNSON:** No, Your Honor, what I'm suggesting is, is
18 that it makes it appear more criminal than it is because it doesn't
19 include the first part of what they were talking about.

20 **THE COURT:** Right. And this is a lot of judgment call in
21 this. And I understand that. You know, another thing I have to
22 weigh is whether or not including things that are not relevant
23 detracts from the relevancy of the portion that's played. So if we
24 play the entirety of the transcript, you know, the jury might be
25 asleep. They wouldn't even understand what the relevance of the

1 whole conversation was. So we have to be careful about which parts
2 we're adding, to make sure that the parts that are added give
3 context but are not there just to confuse the jury or to mislead
4 the jury about what they're supposed to be considering.

5 **MR. JOHNSON:** I understand that, Your Honor. But what we
6 raised in our defense was -- what I think we're going to get to is
7 they're already condensing in several instances 28-minute long
8 clips down to a minute and a half. And so the situation that we
9 get into is, is on cross can I introduce the rest of what I want to
10 introduce or are they going to then stand up and object and say,
11 "Oh, no, he's trying to introduce statements that are beneficial to
12 the defense? He's not allowed to do that. He can't allow
13 statements to benefit the defendant. He's not allowed to do that."

14 Well, that's why the rule of completeness exists is
15 because the party who the statement is being offered against, at
16 the very least, has the right to say, "Play the whole statement."
17 It's one audio clip. It's one conversation.

18 **THE COURT:** Yeah. You want me to read the rule to you,
19 Mr. Johnson? I'll read it from the Rules of Evidence to you. It
20 doesn't give the right to play the whole clip. It uses the word
21 entirety of the clip or portions of the clip, I believe, that are
22 necessary. I'll pull it up right now. We'll all make sure we're
23 on the same page about what the task at hand is.

24 **MR. JOHNSON:** Judge, just to point out this portion --

25 **THE COURT:** Hold on.

1 **MR. JOHNSON:** Sorry.

2 **THE COURT:** "If a party introduces all or part of a
3 statement, an adverse party may require the introduction at that
4 time of any other part or any other statement that in fairness
5 ought to be considered at the same time. The adverse party may do
6 so over a hearsay objection."

7 So the idea is that it's to be fair and that the jury
8 understands the context, and that the Government is not permitted
9 just to take little pieces of a conversation out of context and
10 piece it together in a way that would be unfair or unrepresentative
11 of what the recording actually says. So you have the burden to
12 invoke the rule of completeness and show me why the portion they're
13 trying to play is unfair or mischaracterizes the conversation.
14 Until I see that, I can't do anything about it.

15 **MR. JOHNSON:** Can I make this point, Your Honor? He
16 says, this part, Leonard Franques says, "But I know the revenue
17 money that was scheduled to go to DA's office Dusty said will give
18 to me and I'll take care of it from there. But obviously that's
19 not going to them. So start thinking about a revenue share
20 agreement --" that's Gary -- "a revenue share agreement --" with
21 the district attorney, is what he is implying. "No, absolutely.
22 And hey, I just want to get paid back the money first."

23 Then we skip -- we leave out that portion even though it
24 is immediately prior, and we start talking about him, "Hey, I sent
25 you some cases."

1 And they also mention Wildlife and Fisheries, Your Honor.
2 Part of the defense is that Gary Haynes invested in a legitimate
3 business. He didn't invest in CBT. He invested in what he
4 believed was a legitimate business opportunity with the Department
5 of Wildlife and Fisheries. This is talking about that immediately
6 prior to him -- they're taking that part out and going straight to,
7 "Hey, I sent you more cases to CBT."

8 Those thoughts are identified. They're linked. They're
9 not -- the Government's saying, hey, he was investing in CBT and he
10 was trying to send as many CBT cases as possible. The defense is,
11 no, that's not the case. He was investing in a legitimate
12 business, you know, that he believed was happening with the
13 Department of Wildlife and Fisheries. Eliminating the part where
14 they're talking about revenue sharing with the district attorney
15 and they're talking about Wildlife and Fisheries immediately prior
16 to --

17 (Asked to slow down.)

18 **MR. JOHNSON:** Sorry. I apologize.
19 -- immediately prior to that conversation about referring
20 CBT does take it out of context unnecessarily.

21 **MR. CLEMONS:** Judge, may I just make one statement,
22 please?

23 **THE COURT:** Sure. Go ahead, Mr. Clemons.

24 **MR. CLEMONS:** When you read the rule, Judge, what jumped
25 out to me is the term fairness, whether a statement the defendant

1 made should be admissible because of fairness. And I think this
2 honorable Court should consider a defendant's defense in
3 considering whether any statements he made should be included in
4 fairness. I don't think fairness is just completeness. I think
5 fairness also includes the statements that the accused made, not
6 knowing that he was being recorded, that are consistent with his
7 defense. So I just want to put that on the Court's mind as you
8 consider these calls, Judge, because I think fairness does also
9 include not just completeness, but it also includes statements that
10 support the defendant's defense. Because he didn't know he was
11 being recorded. It's not like somebody is rehearsing and going to
12 say something that's supporting their defense, Judge. So just
13 please just keep that in mind.

14 **THE COURT:** So this is what we're going to do. I'm going
15 to set the table for the remainder of the trial insofar as this
16 issue comes up. At this late hour, I'm not going to -- first of
17 all, I haven't seen a showing that convinces me that the Rule 106
18 applies to the portion of the transcript. I'm not saying it's not
19 out there, but I have not seen it. I'm not seeing anything that
20 convinces me that there's a 106 issue with the parts of the
21 transcript that the Government intends to play.

22 But if there is, and during the Government -- or during
23 the defendant's case, if additional portions of this recordings,
24 and you can show me why it's necessary to play certain portions
25 under the rule of completeness, then I would be amenable to

1 considering that. I haven't seen it yet, and I'm not going to make
2 the Government play any additional parts on the showing that I have
3 before me right now.

4 **MR. JOHNSON:** I understand, Your Honor.

5 **THE COURT:** All right.

6 **MR. CLEMONS:** Judge, can we get clarity on the ruling,
7 Judge?

8 **THE COURT:** I don't understand why that wasn't clear.
9 What clarity do you need, Mr. Clemons?

10 **MR. CLEMONS:** If I can't get clarity, I'm not going to
11 ask the question, Judge. You said that we can show you when we
12 present our case. Words matter to me. Are you saying we can't do
13 it on cross-examination; that we'll have to recall these witnesses?
14 because cross-examination is not our case. You said you'll
15 consider it when we start putting on our case and whether we can
16 play them. So are you saying that we can't play them on
17 cross-examination of Dusty Guidry? because that's not technically a
18 part of our case. We just want to be clear what the rules are. Do
19 you understand my question?

20 **THE COURT:** You're asking if you can play portions of the
21 recording on your cross-examination of Dusty Guidry?

22 **MR. CLEMONS:** I'm just using him for an example, Judge.
23 You said that before we could play those recordings and present
24 them in our case, you would consider it but we have to make a
25 showing.

1 **THE COURT:** Whenever you intend -- if and when you make a
2 showing that additional portions of the recordings are necessary to
3 be played by the jury, to be fair under the rule of completeness,
4 then I will consider that. I have not seen a showing at that point
5 -- at this point.

6 **MR. CLEMONS:** Right. I just want it to be clear because
7 you said in our case. I just want it to be clear how you --

8 **THE COURT:** On your case, whether it's cross-examination
9 -- of course, logistics, I think, are important because we have to
10 figure out when I'm supposed to determine that and how you are
11 supposed to present that to me. The reason I put it the way I did
12 was because after these have been played to the jury, I'm going to
13 have a better idea about how they sound on the audio, not just the
14 transcript, as Mr. Johnson pointed out earlier, as well as kind of
15 how they fit into the context of the Government's case. And that's
16 going to give me a better idea of how to rule on any motion.

17 **MR. CLEMONS:** Can we get some idea on when they plan on
18 first playing them so we can know what time they're playing them?

19 **THE COURT:** I think they're probably going to play some
20 today; right?

21 **MR. CLEMONS:** That's what I'm trying to find out.

22 **MR. WALKER:** Absolutely. Now, the consensual recordings,
23 I don't expect us -- Mr. Nickel is the person who's putting on the
24 witness.

25 **MR. NICKEL:** Yeah. So none of the consensual recordings

1 I believe are going to be played today.

2 **MR. CLEMONS:** You said none?

3 **MR. NICKEL:** Yeah. None of the clips we discussed.

4 However, I do intend to introduce everything, like I discussed
5 yesterday. So as to the first ruling you made about taking out the
6 \$10,000, I just need to know what number that is because when I
7 move to introduce it I'm going to have to -- my thumb drives, I'm
8 going to have to edit them.

9 **THE COURT:** Actually, I didn't make a ruling about that
10 yet. I told you I was going to -- don't introduce that yet. I'm
11 going to listen to it over lunch. Mr. Johnson thinks the audio
12 shows that it can be broken up in a way that makes sense. And I
13 would like to determine that.

14 **MR. NICKEL:** Sure. And so I won't -- I'm not playing
15 those today, but I intended on laying a foundation, getting them
16 through Agent Herman. But if they're not going to -- they're not
17 going to be played today, the ones you're talking about.

18 **MR. WALKER:** And Your Honor, if Agent Herman identifies
19 the consensual recordings, it's going to be on a thumb drive. If
20 it's admitted, we can -- if you say there's a portion that can
21 remain in and we don't have a problem with it, and if you say
22 there's a portion that can't remain in, we can take that thumb
23 drive and we can substitute --

24 **THE COURT:** The audio clip?

25 **MR. WALKER:** -- the audio clip so that the jury is not

1 going to actually see something that the Court hasn't agreed to in
2 its ruling. I think we are going to be fine, is what I'm trying to
3 say.

4 **THE COURT:** All right.

5 **MR. CLEMONS:** Judge, I have one more brief issue,
6 whenever you're finished with that, before the jury.

7 **MR. JOHNSON:** Thank you, Judge.

8 **MR. CLEMONS:** Judge, I received an e-mail from Mr. Loew
9 and I was going to talk to him at the break, but I might as well
10 bring it up now in case I need to get you involved. Mr. Loew sent
11 an e-mail regarding Bradley Zaunbrecher. He is one of our
12 witnesses. He's somebody Mr. Landry is about to get questioned
13 about. He's somebody Mr. Landry alluded to without mentioning his
14 name, but he's about to mention his name now. And Mr. Loew said,
15 Todd, on Thursday, September 4th, the U.S. -- the United States
16 spoke with Bradley Zaunbrecher in preparation for trial. He's on
17 our subpoena list. He's on our witness list. He's on theirs. He
18 told us that he's had several health problems, including, quote,
19 [as read] "His blood sugar was off and two strokes. I don't know
20 when these occurred. I'm sorry, Judge. I don't know when these
21 occurred. I'm not reading that. He thinks the health issues have
22 affected his memory in that he can remember events but he struggles
23 with placing the events in chronological order. Please feel free
24 to contact me with questions. Mr. Loew."

25 So I just wanted to bring that up because I don't know

1 what he's supposed to be telling me or telling the Court. But I
2 want the Court to be aware because this is a witness who is an
3 integral part of this case. So if there's a problem, I learned a
4 long time ago, a judge told me, "I can't help you with any problems
5 if you don't bring them to me." So I'm just putting you on notice,
6 this could be a problem, Judge.

7 **THE COURT:** What sort of problem can it be?

8 **MR. CLEMONS:** Well, if he gets up there on the
9 cross-examination and he pretends he doesn't remember anything but
10 they've already got the information in, then it's going to be a
11 problem, Judge. That's going to be the problem. And I'm concerned
12 that's what they're trying to say, is that since we subpoenaed him,
13 they are concerned that there are certain things he's not going to
14 be able to remember on cross-examination. I think that's their
15 not-so-subtle way of saying that, Judge.

16 **THE COURT:** Well, the process of direct and
17 cross-examination is a truth-telling function. That's why we have
18 the adversarial system. The jury is going to be able to determine
19 whether they believe that any claimed lack of memory by the witness
20 is based on medical condition or based on artifice, and that's
21 their job. So I don't know exactly what you'd like me to do about
22 that.

23 **MR. CLEMONS:** Well, I don't want you to do anything at
24 this time, Judge; but if he gets here and claims he's not qualified
25 to testify, then we'll have to deal with it at that time because I

1 don't know --

2 **THE COURT:** You're worried about the -- whether he is
3 qualified to testify, that's it?

4 **MR. CLEMONS:** That's one of my concerns.

5 **THE COURT:** Is that why you sent the e-mail, Mr. Loew?

6 **MR. LOEW:** No, Your Honor. It seemed like the
7 appropriate thing to do under our duties of disclosure.

8 **THE COURT:** You just heard that this had happened and you
9 wanted to let Mr. Clemons know that?

10 **MR. LOEW:** Yeah. And we intend to call him and I think
11 it's going to be quite obvious when he testifies that he struggles
12 with memory. So I just informed the defendant like I think I'm
13 responsible to do.

14 **THE COURT:** All right. Is everybody ready for the jury?

15 **MR. WALKER:** Can we have a two-minute break, Your Honor,
16 and then bring in the jury?

17 **THE COURT:** Okay. Let's start back at 8:45.

18 **MR. WALKER:** Thank you, Your Honor.

19 (Off the record at 8:39 a.m.; resumed at 8:45 a.m.)

20 **MR. WALKER:** Do you want Mr. Landry at the stand, Your
21 Honor?

22 **THE COURT:** We can go ahead and get him up there, yes,
23 sir, Mr. Walker.

24 Now that jury selection is over, counsel, make sure you
25 turn in your jury questionnaires to Ms. Lacombe today. Thank you.

1 (Jury present.)

2 **THE COURT:** Thank you. Please be seated. Ladies and
3 gentlemen, good morning. Thank you-all for being here on time for
4 Day 2 of our jury trial. We left off after Mr. Landry completed
5 his direct examination. It's now time for his cross-examination.
6 Before we begin today, anything to report to me this morning?
7 Everybody's good? All right. Please proceed, Mr. Clemons.

8 **MR. CLEMONS:** Thank you, Judge.

9 **DONALD LANDRY,**
10 after having first been duly sworn, did testify as follows:

11 **CROSS-EXAMINATION BY MR. CLEMONS:**

12 Q. Good morning, Mr. Landry.

13 A. Good morning.

14 Q. How are you today?

15 A. I'm doing fine, sir.

16 Q. Good, good. I'm Todd Clemons. I have the pleasure of
17 representing Mr. Haynes.

18 A. Yes, sir.

19 Q. Mr. Landry, I have a lot to cover with you this morning. If
20 you need me to repeat something, don't hesitate to ask me to repeat
21 it. I don't think -- you don't have any problem hearing, huh?

22 A. I'd like for you to speak up.

23 Q. Normally, that's not a problem, but if you need me to --

24 A. I'll let you know, sir.

25 Q. That's what I'm looking for. Is this tone okay?

1 A. Yes, sir.

2 Q. You can hear me clearly?

3 A. Yes, sir.

4 Q. And if you need me to rephrase something, I'll be glad to do
5 it. If you need me just to repeat a question, I will be glad to do
6 it. Okay?

7 A. All right.

8 Q. But we have a lot to cover. I don't want to go too fast, but I
9 don't want to go too slow. So just let me know. Okay?

10 A. That'll be fine, sir.

11 Q. Thank you, Mr. Landry.

12 Now, Mr. Landry, I want to clarify. Prior to you
13 testifying yesterday, I want to know what all you reviewed prior to
14 your testimony yesterday.

15 A. I'm sorry. I didn't understand that, sir.

16 Q. Did you hear? You need me to rephrase it? Or you didn't hear
17 it?

18 A. Rephrase it, please.

19 **THE COURT:** He asked did you review anything? Did you
20 look at anything before your testimony yesterday? That's what he's
21 asking you. Did you look at anything to refresh your memory about
22 anything before your testimony?

23 **THE WITNESS:** No, sir.

24 **BY MR. CLEMONS:**

25 Q. And you didn't listen to any recordings, any phone calls?

1 A. No, sir.

2 Q. You didn't read any of your 302s prior to testifying?

3 A. I did not.

4 Q. Have you ever seen -- I have I think two 30-- you know, let me
5 back up.

6 You know what a 302 is?

7 A. What what is, sir?

8 Q. A 302, FBI report 302?

9 A. Yes, sir.

10 Q. Okay. And do you know that they wrote a couple of 302s based
11 on interviewing you? Do you know that?

12 A. I know about a 302, yes, sir.

13 Q. Did you review those 302s at any point since they've been
14 drafted?

15 A. Sorry. You're mumbling a little bit, sir.

16 Q. Did you review any of those 302s since they have been drafted?
17 Did you hear me that time?

18 A. Yes, sir. Since they've been drafted, I signed one, yes, sir;
19 but since I've signed one, I have not reviewed them.

20 Q. Oh, so you signed a 302 that Doug Herman --

21 **MR. CLEMONS:** Excuse me, you can't testify.

22 **MR. WALKER:** I'm not.

23 **MR. CLEMONS:** Judge, Mr. Walker is shaking his head.

24 That's totally improper. We need to get that straight right now
25 because this man may need a lot of help and him shaking his head is

1 not right.

2 **THE COURT:** All right. Let's make sure we don't make
3 nonverbal signals to the witness. Mr. Walker -- Mr. Landry, are
4 you sure you signed the 302?

5 **THE WITNESS:** I know I signed a document. I'm not sure
6 about 302, but I did sign a document.

7 **MR. CLEMONS:** Judge, I didn't ask him if he signed a
8 document. See, I'm being very patient. I asked him if he knew
9 what a 302 was. He said yes. He said he signed a 302. I have a
10 right to clarify -- and that's all I'm doing -- without the
11 Government shaking their heads. That's all I want to do.

12 **THE COURT:** All right. The witness is instructed to
13 answer the question based on your own recollection.

14 Do you remember signing a 302? Are you sure about that?

15 **THE WITNESS:** Yes, sir.

16 **BY MR. CLEMONS:**

17 Q. Do you know if it was the first 302 or the second 302?

18 A. No, sir, I don't recall.

19 Q. But you're positive it was a 302?

20 A. I'm pretty positive, yes, sir.

21 Q. And you know Mr. Doug Herman, correct? I hate pointing at
22 people, but the FBI Agent Doug Herman?

23 A. Do I know who, sir?

24 Q. Doug Herman, the gentleman right there that I'm pointing at
25 with the dark suit.

1 A. Yes, sir, I know Mr. Herman.

2 Q. You met with him at least twice; correct?

3 A. I knew him.

4 Q. You met with him; right?

5 A. Yes, sir.

6 Q. You testified before the grand jury; correct?

7 A. Yes, sir.

8 Q. Did you review that transcript of your testimony?

9 A. No, sir.

10 Q. So you've never seen that?

11 A. I have not seen it.

12 Q. Prior to testifying, did you speak with anyone about your
13 testimony?

14 A. No, sir.

15 Q. Nobody in the U.S. Attorney's Office?

16 A. You're talking about today?

17 Q. Prior to testifying, did you speak to anyone at any point about
18 your testimony?

19 A. Yes, sir, I have reviewed my testimony.

20 Q. You spoke to the U.S. Attorney's Office about your --

21 A. Yes, sir.

22 Q. When was the most recent time?

23 A. Two days ago, three days ago.

24 Q. Okay. So that would be Friday or Saturday; correct?

25 A. Yes, sir.

1 Q. And that would be after they got the defense's exhibit list;
2 correct?

3 A. I think I spoke -- actually I think I spoke to them on Sunday,
4 was the last time.

5 Q. Two days ago?

6 A. Yes, sir.

7 Q. And you had to have a meeting with them; correct?

8 A. I met with them, yes, sir.

9 Q. And that was the last meeting, not the only meeting; correct?

10 A. That's correct.

11 Q. Now, I think there is a lot we can agree to, Mr. Landry --
12 agree with, Mr. Landry, and so I want to knock these out first.
13 For example, you would agree that prior to being DA you had 34
14 years of experience as an assistant DA; correct?

15 A. That is correct.

16 Q. And you would agree that Gary Haynes was a very loyal friend,
17 next door neighbor, law partner. He was all those things to you up
18 until this case; correct?

19 A. That's correct.

20 Q. Don't know the nature of the relationship now, but I'm talking
21 about prior to this investigation started, y'all had a very close
22 relationship; correct?

23 A. I would say yes.

24 Q. Now, he worked very, very hard on your campaign, didn't he, Mr.
25 Landry?

1 A. Say again, please.

2 Q. He worked very hard with you during your campaign; correct?

3 A. Yes, he did, sir.

4 Q. He assisted you on almost a daily basis; correct?

5 A. He assisted me a lot. I don't know about a daily basis.

6 Q. For over a year and a half; correct?

7 A. About a year and a half, yes, sir.

8 Q. In other words, he was there from the beginning in 2019 until
9 the night of the election in the fall of 2020; correct?

10 A. That is correct.

11 Q. Introduced you to a lot of people, took you a lot of places?

12 A. He did introduce me to a lot of people, yes, sir, and we went
13 to a lot of places together.

14 Q. Helped you raise a lot of money to get elected; correct?

15 A. We did raise money, yes, sir.

16 Q. No. My question is: He helped you raise a lot of money?

17 A. Yes, sir, he did.

18 Q. Isn't it true without his assistance there's a good chance you
19 would not have gotten elected? Isn't that true, Mr. Landry?

20 A. I don't know if that's true, sir. I would like to think that I
21 had a big part.

22 Q. I didn't say you didn't, sir. I said: Isn't it true that
23 without his assistance there's a good chance you would not have
24 gotten elected? That's my question.

25 A. I can't say that, sir.

1 Q. Okay. Now, and you acknowledged Mr. Ronnie Guidry the night of
2 the election; correct?

3 A. Say it again.

4 Q. You acknowledged Mr. Ronnie Guidry the night of the election;
5 correct?

6 A. I still didn't hear you, sir.

7 Q. So you need me to speak louder?

8 A. I think it's the tone of your voice, maybe.

9 Q. Well, I can't --

10 A. It's a little muffled for me. I'm sorry.

11 Q. I can't change my tone. I can speak louder.

12 A. Okay.

13 Q. Isn't it true the night you got elected you acknowledged Ronnie
14 Guidry in your comments; correct?

15 A. I don't recall that, sir, but I might have.

16 Q. You don't dispute it, do you?

17 A. I don't know.

18 Q. Now, you spoke to Ronnie Guidry about getting his son hired as
19 a consultant for PTI, didn't you?

20 A. Yes, sir.

21 Q. You spoke to Hillar Moore about Dusty Guidry, didn't you?

22 A. Yes, sir.

23 Q. And Hillar Moore gave you a high recommendation of Mr. Guidry,
24 didn't he?

25 A. No, sir.

1 Q. So Mr. Moore gave you a bad recommendation of Guidry?

2 A. No, sir. He gave me no recommendation.

3 Q. What did he say about Guidry, then?

4 A. I don't recall, sir.

5 Q. So just to make sure I'm not delusional, Dusty Guidry had
6 worked for Hillar Moore for many, many years as a P trial
7 investigation, quote, guru; correct?

8 A. That's my understanding.

9 Q. And Hillar Moore is the DA 45 miles from here in Baton Rouge;
10 correct?

11 A. He is.

12 Q. You have known Mr. Moore since he's been DA; correct?

13 A. I do know him, yes, sir.

14 Q. And did you say you spoke to him about Guidry but you don't
15 recall what y'all spoke about?

16 A. I don't think so, sir. I don't think we spoke about it.

17 Q. Oh, okay. So even though -- but you knew Guidry had worked for
18 him for many years; correct?

19 A. I did know that, yes, sir.

20 Q. And you brought this man in as your pretrial guru and you
21 didn't bother to talk to his boss, who was your colleague, about
22 the man?

23 A. Sir, I don't think Mr. Guidry would have wanted me to speak to
24 Mr. Moore about it. Mr. Guidry was still working for Mr. Moore at
25 the time.

1 Q. Oh, so y'all were doing a secret deal behind Hillar's back?

2 A. I didn't consider that a secret deal, sir.

3 Q. But don't you think that once you hired Dusty Guidry, Hillar
4 was smart enough to figure out, hey, my friend hired Dusty Guidry?
5 You don't think Hillar was going to figure that out once you hired
6 Guidry?

7 A. My understanding, sir, was that he had already spoken to Mr.
8 Moore.

9 Q. Okay. So Dusty had already spoke to Moore?

10 A. That was my understanding, sir.

11 Q. Since Dusty has spoken to Moore, didn't you want to talk to
12 Moore to bring -- let me finish my question, please.

13 A. Sure.

14 Q. Wouldn't you want to talk to Moore about this man you putting
15 in the middle of your office, hiring as a pretrial guru? Wouldn't
16 you at least want to have a five-minute conversation with Hillar to
17 say, "Hillar, tell me about this guy"?

18 A. No, sir. It wasn't necessary.

19 Q. Okay. Do you regret it now? Do you regret hiring Dusty Guidry
20 now?

21 A. I'm sorry?

22 Q. Don't you regret the day you hired Dusty Guidry?

23 A. At this point in time, yes, sir.

24 Q. We're only talking about this point in time.

25 A. Yes, sir.

1 Q. Now, I need you to explain, just briefly, the fact that the
2 pretrial intervention program -- isn't it true it was a moneymaker
3 for your office? Correct?

4 A. It does make money, yes, sir.

5 Q. Mr. Landry, I'm going to let you talk to the jury for a while.
6 Just explain to them briefly how -- let me rephrase -- how your
7 district attorney's office is generally funded. We don't need to
8 get down in the weeds of the budget, but the revenue for your
9 office. Mr. Landry, you with me?

10 A. Yes, sir.

11 Q. Just tell the jury just generally how your revenue, the source
12 of your revenue for your office, just big picture.

13 A. Well, for the assistant district attorney, sir, there is a
14 warrant from the State of Louisiana. Each assistant district
15 attorney -- not each one of them -- most of them get a \$50,000
16 warrant from the State of Louisiana to pay part of their salary.
17 We also are able to receive monies from the parish government,
18 local parish government, and they fund the balance of the salaries
19 of these ADAs. They also give us money to actually run the office,
20 to buy the copying machines, to rent equipment, to buy paper, and
21 those kinds of things, sir.

22 Q. Okay. And you can generate your own revenue; correct?

23 A. Yes, sir.

24 Q. There's nothing prohibiting a district attorney's office from
25 generating revenue to supplement whatever you may get from the

1 state or the parish; correct?

2 A. The pretrial program did --

3 Q. Sir, I'm talking about just in general. Isn't it true there is
4 nothing prohibiting a DA's office from getting -- generating its
5 own supplemental revenue?

6 A. Sir, this office didn't do that. No, sir.

7 Q. So you didn't get supplemental revenue from pretrial diversion
8 program?

9 A. I just tried to tell you that pretrial diversion program did
10 generate additional revenue.

11 Q. Okay. And it generated a lot of revenue; correct?

12 A. Yes, sir.

13 Q. Like over a million dollars; correct?

14 A. At a point in time, yes, sir.

15 Q. At a point in time, like the first year Dusty Guidry got there,
16 2021, like that point in time; correct?

17 A. I can't tell you the exact number, no, sir.

18 Q. So you haven't looked at, prior to this -- you testifying,
19 you're not saying you haven't looked at all at the PTI revenue.
20 You've looked at that revenue, haven't you?

21 A. No, sir, I have not.

22 Q. Okay. So give me one minute. So if I represent to you our
23 information reveals that in 2021 your office received 1 million 37
24 dollars -- no, \$1,037,540, you wouldn't dispute that, would you?

25 A. I would not if that's what the record shows, sir.

1 Q. Yeah, and you know we got the records; right?

2 A. I think you subpoenaed the records from my office and I think
3 that someone in my office provided that to you. I did not.

4 Q. Oh, yeah, we going cover that, but we going stick with this. I
5 did get them.

6 So you wouldn't disagree that your office got over a
7 million dollars in revenue from PTI in 2021, the first year you hit
8 office? You wouldn't disagree with that; correct?

9 A. If that's what the records show, I would not dispute that.

10 Q. And if the records show the year before the revenue from PTI
11 was 628,000, you wouldn't disagree with that, would you?

12 A. No, sir, if that's what the records show.

13 Q. But regardless of the records, you know that PTI boosted the
14 revenue significantly for your office the first year you and Dusty
15 Guidry hit office; correct?

16 A. Yes, sir.

17 Q. And there's nothing wrong with that, is it?

18 A. No, sir, there's nothing wrong with that.

19 Q. Now, I think we can agree that your office had a tremendous
20 backlog of cases when you were sworn in; correct?

21 A. That is correct.

22 Q. I think you said 6,500 or 6,300 if I'm right?

23 A. I think I said 62, but it's a lot.

24 Q. Okay. And I think we going to agree that shortly after taking
25 office -- at any point we disagree, let me know -- but I think

1 we'll agree that shortly after you took office you convened a
2 meeting with all the assistant DAs, didn't you?

3 A. I'm sure I had more than one meeting with assistant DAs, sir.

4 Q. That's a good point. You convened a meeting with all the
5 assistant DAs to discuss the pretrial intervention program and
6 moving more cases into pretrial intervention shortly after you got
7 elected, didn't you?

8 A. I think we did have such a meeting, yes, sir.

9 Q. I think you did, too. And I think Dusty Guidry was at that
10 meeting. Do you think that?

11 A. That, I don't recall, sir.

12 Q. You wouldn't dispute it, would you?

13 A. I don't recall.

14 Q. If witnesses come here under oath and say Dusty Guidry was at
15 that meeting, you wouldn't dispute it, would you?

16 A. I would not.

17 Q. If witnesses take oath and say Dusty Guidry was at that meeting
18 and he did most of the talking, you wouldn't dispute it, would you?

19 A. I would not, depending on who that witness might be, sir.

20 Q. Okay. So you may dispute it if a certain witness says it even
21 though you don't recall it either way; that's your testimony?

22 A. I just would want to make sure that was a witness that was in
23 the meeting, sir. That's all I meant by that.

24 Q. Oh, okay. So as long as we can establish that witness was in
25 the meeting, you'll take it as credible?

1 A. Yes, sir.

2 Q. Now, and explain to the jury, you wanted cases pushed to PTI to
3 clear the backlog and to generate revenue; correct?

4 A. That is one of the reasons, sir, yes.

5 Q. Well, that's two reasons: clear backlog and generate revenue.
6 Give me another one, why you wanted cases pushed to PTI.

7 A. There's more than one reason why we have that program, sir.

8 Q. No, no, no, no, no, sir. We going to speak English. We're not
9 even getting to why you got the program yet. We're going to get
10 there. But my simple question is: Pushing cases, boosting PTI,
11 not why you had the program, but why you were pushing cases to PTI
12 -- to clear the backlog and also generate revenue. What are the
13 other reasons?

14 A. To try to help people who deserve their second chance, sir.

15 Q. So Stutes wasn't helping enough people, so you wanted to
16 increase the number of people who got help; correct?

17 A. I think that's probably correct, yes, sir.

18 Q. Okay. But in the meantime, you were helping yourself by
19 generating revenue; right?

20 A. I wasn't helping myself, sir. I was helping the office,
21 reducing the backlog.

22 Q. Now, all the -- all your ADAs, are they allowed to have, quote,
23 private practices at this time?

24 A. That is correct, sir.

25 Q. Make sure -- explain to the jury what a private practice is

1 when we use that term as attorneys. Explain briefly what that is.

2 A. Well, these attorneys have a civil practice, meaning they're
3 allowed to handle other cases besides criminal cases from our
4 office.

5 Q. And they make money off their private practice; correct?

6 A. I would hope so, yes, sir.

7 Q. And they have private law offices at their private practices;
8 correct?

9 A. Yes, sir.

10 Q. And there's no prohibition, even though these are full-time
11 assistant DAs, there's no prohibition on how many days they can be
12 at their office or at the DA's office; correct?

13 A. The way that I know that is by walking the halls every day and
14 knowing who's there and who's not there, sir.

15 Q. Mr. Landry, I didn't ask anything about walking halls. My
16 point is: You don't have a rule that your ADAs have to be at the
17 office every day full time, do you?

18 A. I'm sorry, sir. I didn't understand your question, but, yes,
19 that is correct.

20 Q. You don't have that rule?

21 A. I do not have that rule.

22 Q. So they could be in the DA's office as little as one day a
23 week, correct, if they choose to?

24 A. No, sir, I don't think that ever happens.

25 Q. So you patrol the halls and take notes every day of who's there

1 and who's not there?

2 A. I don't take notes, sir, but I do patrol the halls and I do
3 talk to my assistant DAs on a daily basis. I also speak to them on
4 the phone. We have a very good relationship with our ADAs.

5 Q. But you have three offices, so you can't even be in each office
6 each day; right?

7 A. That is correct, sir. Sometimes I'm in the Lafayette office,
8 sometimes I'm in the Vermilion Parish office, and sometimes I'm in
9 the Acadia Parish office. Most of my time is spent in the
10 Lafayette Parish office.

11 Q. Okay. So isn't it true that that was a part of the reason for
12 the backlog, too, is because ADAs, a lot of them were too focused
13 on their private practice and not doing their full-time ADA job?
14 Isn't that true?

15 A. No, sir. I don't agree with that.

16 Q. Okay. Now, let's talk about the pretrial intervention program.
17 That's optional. There is no law that requires a DA's office to
18 have a pretrial diversion or pretrial intervention program;
19 correct?

20 A. That's correct.

21 Q. Are there any DAs in this state who don't have pretrial
22 intervention programs?

23 A. I don't know the answer to that, sir.

24 Q. Okay. And I know you testified that when you were an ADA,
25 initially, at least, your office didn't have a pretrial

1 intervention program; correct?

2 A. I don't think we did, sir.

3 Q. About what year did your ADA career start?

4 A. I'm not certain about that, sir.

5 Q. Can you give me an estimate of when your ADA career started?

6 A. My career started 1980-'81 perhaps, '82.

7 Q. But I'm talking about as an assistant DA.

8 A. Yes, sir.

9 Q. And that was under Mr. Stansbury; correct?

10 A. That is correct.

11 Q. And so that's when the 31 -- 34 years started in '81-'82
12 consistently?

13 A. That is correct, sir.

14 Q. You're familiar with a term called DA's probation, aren't you,
15 Mr. Landry?

16 A. I've heard it, yes, sir.

17 Q. That's an old-school term; right?

18 A. Yes, sir.

19 Q. You don't hear that much anymore, huh?

20 A. I hear it from time to time.

21 Q. But not nearly as often as you used to back in the '80s; right?

22 A. Correct.

23 Q. Tell the jury just briefly what DA's probation used to be.

24 A. Well, on some occasions, when some usually misdemeanor cases
25 are submitted to the office, based upon discussions with the victim

1 in the case, if we have a victim, sometimes with the police agency,
2 it's determined that it's not necessary to go forward with the case
3 all the way and to decide to simply monitor the case for a period
4 of time. And if that person stays out of trouble, then that person
5 will not have to face the charges.

6 Q. The charges would get dismissed; correct?

7 A. Or refused, yes, sir.

8 Q. But it was an informal process. We based -- I say "we." I
9 used to be an assistant DA, so that's why I'm saying. You
10 basically pull the file, put it on the shelf, the young man, young
11 woman stays out of trouble six months or a year, you check their
12 rap sheet, you run it again, the rap sheet is clean, you dismiss
13 the charges; correct?

14 A. That is correct.

15 Q. But DA's probation didn't generate any money for the DA's
16 office, did it?

17 A. I wouldn't think so.

18 Q. You know. You worked in the office. DA's probation did not
19 carry a fee, did it?

20 A. I don't think it did, sir.

21 Q. I don't think it did, either. But pretrial diversion, you're
22 boosting that revenue with pretrial; right?

23 A. You do get revenue from pretrial.

24 Q. So DA's probation had to get replaced with pretrial
25 intervention so we could boost that revenue; right?

1 A. That's one of the reasons, yes, sir.

2 Q. Okay. Because you could help people without charging a
3 thousand dollars to help them; right?

4 A. We could, yes, sir.

5 Q. Okay. Now --

6 A. And we do.

7 Q. Of course. Now, pretrial intervention, we established that
8 there is no state law mandating it. There's no state law that
9 controls it, is there? In other words, there's no state laws that
10 tell the DA how to run his pretrial intervention program; correct?

11 A. Not that I'm aware of.

12 Q. And you would be aware of it since you're in the DA and you
13 have been a DA for a long time? You would know if there were some
14 laws and your office has been investigating?

15 A. I've been a DA for about 4¹/₂ years, sir.

16 Q. And you've been having pretrial intervention for 4¹/₂ years?

17 A. Yes, sir, I have.

18 Q. So if there were state laws controlling it and your office got
19 raided by the FBI, you would know by now, wouldn't you?

20 A. I would think so.

21 Q. Now, Louisiana District Attorney's Association, just tell the
22 jury briefly what that is.

23 A. Say that again, please.

24 Q. The LDAA, Louisiana District Attorney's Association, you're
25 familiar with that?

1 A. Yes, sir. I'm a member of the Louisiana District Attorney's
2 Association. It's an association of the elected district attorneys
3 in the state of Louisiana.

4 Q. Okay. And when it comes to pretrial intervention or anything
5 relating to a DA's office for that matter, they don't have any
6 authority over the office. They just provide guidance for DA's
7 office; correct?

8 A. That's correct.

9 Q. Now, ultimately, despite all the conversations about Gary
10 Haynes and his authority, isn't it true that the ultimate decision
11 on whether someone is allowed in the pretrial intervention program
12 abides on your shoulders as the elected DA; correct?

13 A. That is correct. I'm at the top, sir.

14 Q. Nobody elected Gary Haynes to anything; correct?

15 A. That's correct.

16 Q. Nobody elected Dusty Guidry to anything; correct?

17 A. Say that again.

18 Q. Nobody elected Dusty Guidry to any position?

19 A. That's correct.

20 Q. But you walk these three parishes and you ask people to trust
21 you and that you would run the office properly and with integrity;
22 correct?

23 A. That is correct, sir.

24 Q. And they rewarded you with their vote; correct?

25 A. I run the office properly, yes, sir.

1 Q. And they rewarded you with their vote to get you elected;
2 right?

3 A. I would hope so, sir.

4 Q. Now, Mr. Landry, you chose who worked in pretrial intervention
5 and who did not; correct?

6 A. Say it again.

7 Q. You chose and decided who worked in pretrial intervention and
8 who did not work in that department; correct?

9 A. I delegated to Mr. Gary Haynes the authority to run that
10 department, sir. Is that what you're asking me?

11 Q. No, no. We going get to that. I promise. I'm talking about
12 who was assigned to work in pretrial intervention. You made that
13 decision as to who worked in that department. Gary Haynes didn't
14 decide. Dusty Guidry didn't decide. You decided who got to work
15 in the pretrial intervention office, just like any other department
16 in your office; correct?

17 A. That personnel was already in that office, sir, and I decided
18 to keep them in their same positions.

19 Q. You could have moved them to any other position if you wanted
20 to; correct?

21 A. Say it again.

22 Q. Those people in those same positions, you could have moved them
23 to another position once you took over; correct?

24 A. That's my authority, sir.

25 Q. They're not civil service employees. You could have fired them

1 all if you wanted to; correct?

2 A. Sure, I could have.

3 Q. But you kept them in pretrial intervention; correct?

4 A. That is correct.

5 Q. And you chose to put Dusty Guidry and Gary Haynes. That was
6 your decision; right?

7 A. Yes.

8 Q. Okay. Didn't you sign the majority of the completion
9 certificates?

10 A. Probably signed all of them, sir.

11 Q. Okay. And explain why you put your signature on the completion
12 certificates.

13 A. Because I relied on the coordinators who managed that
14 department, who managed those particular cases. I relied on the
15 fact that I had delegated to Mr. Haynes the authority to run that
16 department. And when they put the certificates on my desk, I
17 assumed that everything had been done correctly, and so I signed
18 the certificates. The certificate basically was for someone to
19 hang on their wall to show that they had successfully completed a
20 program in our office called pretrial intervention, sir.

21 Q. But there was no requirement that you sign it as the DA;
22 correct? An assistant DA could have signed it; correct?

23 A. No, sir, not on the form.

24 Q. Okay. So who made the form?

25 A. Our office did.

1 Q. So you could have put assistant DA's name on the form; correct?

2 A. I'm sorry?

3 Q. Just like the form put your name -- your office put your name
4 on the form, you could have put the name of an assistant DA to sign
5 the form; correct?

6 A. I could have.

7 Q. But you wanted to get credit for it; right?

8 A. I signed the forms, sir.

9 Q. Okay. Let's talk about the vendors. You kept the vendors that
10 Mr. Stutes had in his administration; correct?

11 A. Yes, sir.

12 Q. And we going to go through those vendors in a minute. But you
13 brought in Leonard Franques, correct, as a vendor? You brought him
14 on?

15 A. Mr. Franques was a new vendor recommended by Mr. Haynes, yes,
16 sir.

17 Q. You keep saying he was recommended by Mr. Haynes. Let's break
18 that down. Isn't it true that Dusty Guidry had worked with
19 Franques for many years in Baton Rouge in Hillar Moore's office;
20 correct?

21 A. I didn't know that at the time, sir.

22 Q. Sir, I'm asking what you know right now. I'm not qualifying in
23 on any time. Everything I ask you is based on what you know right
24 now unless I ask --

25 **THE COURT:** Mr. Clemons, he can clarify his answer. That

1 was an ambiguous question. He can clarify when he knew and what he
2 knew.

3 **MR. CLEMONS:** Okay. But I'm just letting him know,
4 Judge.

5 **THE COURT:** I'm letting you know that he can clarify his
6 answers.

7 **MR. CLEMONS:** I understand.

8 **BY MR. CLEMONS:**

9 Q. But Mr. Landry, I want you to know my questions are about what
10 you recall as you sit here. Do you understand?

11 A. I do understand.

12 Q. And if I need to qualify it, I will try to let you know. Or if
13 you need me to qualify it, just let me know. Okay?

14 A. Yes, sir.

15 Q. So now, as you sit here, you know that Franques had been a
16 vendor for many, many years and he had worked with Dusty Guidry for
17 many years in Baton Rouge?

18 A. I did not know that and I do not know that now, sir.

19 Q. Okay. So you've never known that?

20 A. Sir, that's the first time I hear that he's worked for Hillar
21 Moore for many, many years with Dusty Guidry. That's the first
22 time I hear that.

23 Q. Okay. And when did you meet Mr. Franques? You met him in 2019
24 at Don's Specialty Meat at a fundraising event, didn't you?

25 A. I think I was introduced to Mr. Franques by Mr. Gary Haynes,

1 and I do believe that I did see him at an event at Don's Specialty
2 Meats.

3 Q. My question is where you met him, not when you saw him. That's
4 when you met him?

5 A. Yes, sir.

6 Q. Okay. And isn't it true that same year, 2019, he and his wife
7 each gave you \$2,500 in donations?

8 A. That could be correct, sir. I didn't review the records.

9 Q. Okay. Do you have any reason to dispute that?

10 A. No, sir.

11 Q. You know the maximum campaign contribution someone can make to
12 the DA's campaign, don't you?

13 A. Yes, sir. I do.

14 Q. And what was that?

15 A. 5,000.

16 Q. Now, you also knew that Mr. Franques ran business with his
17 wife; correct? You knew that; right?

18 A. I learned that, yes, sir.

19 Q. Now, isn't it true that Dusty Guidry would speak to you on a
20 regular basis about the pretrial intervention program, about cases
21 in the program, about vendors? Y'all would talk regularly about
22 that in 2021; correct?

23 A. No, sir, not on a regular basis.

24 Q. But y'all would talk often?

25 A. Not often, sir, but we would talk with Mr. Haynes usually.

1 Q. Okay. I'm talking about you speaking to Dusty Guidry on the
2 telephone.

3 A. No, sir, not on a regular basis. I certainly spoke to him.

4 Q. Okay. I don't want to get bogged down in semantics.

5 A. I'm not sure what you mean by on a regular basis, sir.

6 Q. Well, how often did you speak to him on the phone? You tell me
7 that.

8 A. From time to time, maybe once a week.

9 Q. Okay. But when you spoke to him, it was about pretrial
10 intervention because that's what he was doing; correct?

11 A. I would think most of the time.

12 Q. And you had no way of knowing that his phone calls were
13 recording -- being recorded by the FBI at any point in speaking
14 with him; correct?

15 A. That's correct, sir.

16 Q. Now, one of the cases you spoke to him about was the
17 Zaunbrecher case, wasn't it? Bradley Zaunbrecher?

18 A. No, sir. I don't think I ever spoke to Mr. Guidry about
19 Bradley Zaunbrecher.

20 Q. Okay. Now, if you heard a telephone call of you having a
21 conversation with Mr. Guidry about Mr. Zaunbrecher, would that
22 refresh your recollection about speaking to him?

23 A. I don't think that happened, sir, but if that's the case, then
24 that's the case.

25 Q. If that's the case, that's the case?

1 A. That would help me with my recollection, yes, sir.

2 **MR. CLEMONS:** Hold on one minute. I'm going to play a
3 portion of the call.

4 **MR. LOEW:** Objection, Your Honor.

5 **THE COURT:** Please approach.

6 (Begin bench conference.)

7 **THE COURT:** Which call are you wanting to play, Mr.
8 Clemons?

9 **MR. CLEMONS:** I have my staff getting the number, Judge.
10 You mean the number? But it's a call between him and Dusty Guidry.
11 And I can get you the number as soon as the staff -- if you want
12 the number, I can get the staff to give it to you. But it's a call
13 between him and Dusty Guidry. They're discussing Bradley
14 Zaunbrecher's case and they're discussing whether the case should
15 be in, not be in, whether it should be prosecuted.

16 **THE COURT:** All right. So how is that call admissible
17 into evidence?

18 **MR. CLEMONS:** Because it's admissible to impeach him,
19 Judge. It's admissible to impeach him because --

20 **THE COURT:** Well, you have to set up an impeachment.

21 **MR. JOHNSON:** He said he did not talk to him.

22 **MR. CLEMONS:** Yeah, and he just said -- he said he needs
23 to hear it to recall it. He said he never spoke to him.

24 **THE COURT:** What's your objection?

25 **MR. LOEW:** It's hearsay.

1 **MR. JOHNSON:** It's his own words, Your Honor. He's on
2 the phone.

3 **THE COURT:** Well, I understand. I think you have to set
4 up an impeachment. You have to do it through the process, Mr.
5 Clemons, of trying to impeach him if you want to enter in extrinsic
6 evidence.

7 **MR. CLEMONS:** Judge, I understand that, but the man has
8 already testified that he did not speak to Dusty Guidry. He tried
9 to minimize how often he spoke to Dusty Guidry. He minimized that
10 he ever spoke to Dusty Guidry about the Zaunbrecher case. He's
11 testified on direct that DWI second and thirds or thirds, for sure,
12 they weren't allowed in the program. So this is going to be a
13 chance, and I can certainly let the Court hear it --

14 **THE COURT:** You need to get through specifics with him
15 about the call, about the recorded call, when it took place, who it
16 was between, what the subject matter was, and ask him if he recalls
17 it.

18 **MR. CLEMONS:** Okay.

19 **MR. LOEW:** Your Honor, if he does that and it's allowed
20 to be played, I would just ask that the entire call is played and
21 not just one portion to prove that he talked with Bradley
22 Zaunbrecher because there is some very exculpatory information in
23 there for Mr. Landry. So that shouldn't be cut out. If he's going
24 to play the call, he should play the whole call.

25 **THE COURT:** All right. Well, let's see if we get there.

1 And then I'm going to have to listen to the call.

2 (End bench conference.)

3 **BY MR. CLEMONS :**

4 Q. Mr. Guidry -- I'm sorry, Mr. Landry, you spoke to Mr. Guidry.

5 We have established that you spoke to him on the phone; correct?

6 A. Say it again.

7 Q. You did speak to Mr. Guidry on the phone in November 15th -- or
8 in November of '21?

9 A. I don't remember a particular date.

10 Q. But you agree that you spoke to him during that time frame, is
11 my point. I'm not expecting you to remember an exact date.

12 A. I'm sure I did, sir, but I don't have any specific recollection
13 of that.

14 Q. Okay. And you spoke to him about cases that are in the
15 pretrial intervention program or whether they should be in the
16 program; correct? Is that the nature of your phone calls with Mr.
17 Guidry?

18 A. I might have, sir. I don't recall the nature of the phone
19 calls. What I said earlier was I spoke to Mr. Guidry from time to
20 time on the telephone about pretrial and perhaps I spoke to him
21 once a week. I'm not sure, sir.

22 Q. And you also testified on direct that you wouldn't agree for
23 DWI third cases to be allowed in pretrial; correct? Do you
24 remember saying that yesterday?

25 A. I don't understand that, sir.

1 Q. You remember testifying yesterday about DWI third offenses?

2 A. DWI first?

3 Q. Third, three.

4 A. No, sir. I don't recall any discussions about that yesterday.

5 Q. Do you remember discussing --

6 A. Especially --

7 Q. DWI second --

8 I'm sorry. We can't talk at the same time.

9 A. Yes, sir. You're right.

10 Q. Do you remember discussing DWI cases at all?

11 A. Yes, sir.

12 Q. Do you remember discussing DWI first cases?

13 A. Yes, sir.

14 Q. Do you remember talking about the pilot program for DWI
15 seconds?

16 A. I do.

17 Q. Do you remember Mr. -- I forgot his name -- asking you would
18 you ever approve of a DWI third, and I think your answer was, "I
19 would never approve of it"? Do you remember that?

20 A. I don't recall, but I probably would have said that, yes, sir.

21 Q. You don't recall it just from yesterday?

22 A. I remember the discussions about DWIs. I don't remember the
23 third.

24 Q. Okay. But isn't it true, sir, if a DWI third case got in the
25 program, it could get in the program if you approved it; correct?

1 A. It could be, yes, sir.

2 Q. So there was no prohibition on DWI thirds going in the program
3 if you signed off on it; correct?

4 A. That's correct.

5 Q. So, therefore, my point is if you spoke to Dusty Guidry about
6 enrolling somebody in the DWI -- in the PTI program who had a DWI
7 third offense, that would be inconsistent with what you said
8 yesterday about you not approving any?

9 A. I have no recollection.

10 **MR. LOEW:** That mischaracterizes not only the testimony
11 yesterday but his testimony just now.

12 **THE COURT:** Mr. Landry, if you approve a charged crime to
13 go into the pretrial program, could you do that?

14 **THE WITNESS:** Yes, sir.

15 **THE COURT:** All right.

16 **BY MR. CLEMONS:**

17 Q. And it's your testimony that you do not recognize the name
18 Bradley Zaunbrecher at all?

19 A. No, sir. That is not my testimony. That's not the question
20 you asked me.

21 Q. Tell me, you recognize the name Bradley Zaunbrecher?

22 A. I do, sir.

23 Q. And you know that Bradley Zaunbrecher was arrested for DWI
24 third?

25 A. I know he had a DWI second.

1 Q. Okay. And you know that he was arrested while he was in your
2 PTI program?

3 A. Yes, sir.

4 Q. And you know that in October of '21, he was arrested for a DUI
5 third? You don't recall that?

6 A. I don't recall that, sir.

7 Q. Okay. Let me see if you recall this. You know Terry Rider
8 [phonetic]; correct?

9 A. What name again, please?

10 Q. Terry Rider?

11 A. No, sir.

12 Q. You don't recognize the name Terry Rider?

13 A. Rider?

14 Q. Rider. He called you and complained to you about Zaunbrecher
15 getting arrested again for DUI.

16 A. I know a Terry Rider so from Acadia parish and sounds like
17 something Terry Rider might call me about, sir.

18 Q. And when you say it sounds like something Terry would call you
19 about, what do you mean?

20 A. I don't recall a specific conversation.

21 Q. Okay. Isn't it true the conversation was Terry Rider called
22 you complaining because Zaunbrecher kept getting DUIs and not
23 getting punished for it? Isn't that the conversation?

24 A. Could have been the conversation, yes, sir, knowing Mr. Terry
25 Rider.

1 Q. Okay. So knowing Rider, that could have been the conversation?

2 A. Yes, sir.

3 Q. And isn't it true after speaking to Rider, you spoke to Dusty
4 Guidry about Zaunbrecher and his arrest and whether he should stay
5 in the program and what he should be charged with; correct?

6 A. No, sir. I don't recall that.

7 **MR. CLEMONS:** Judge, that's why we need to play this call
8 because this call is going to be contradictory.

9 **THE COURT:** Hold on, Mr. Clemons. You're not talking to
10 the jury about your theory of your case to me. You understand?

11 **MR. CLEMONS:** I'm sorry, Judge. I was -- go ahead.

12 **THE COURT:** You have not set up an impeachment that I can
13 tell. So is there another evidentiary basis for me to play the
14 call?

15 **MR. CLEMONS:** Judge, the basis is I think it's
16 impeachment and also it's to refresh his recollection. He said
17 that if he hears the call it would refresh his recollection.

18 **THE COURT:** We'll take a ten-minute break. It's time for
19 our morning break anyway. We'll let the jury have a little break
20 and we will play the witness the call. And then we'll come back
21 and we will resume questioning.

22 **MR. CLEMONS:** Thank you.

23 **THE COURT:** All rise for the jury.

24 (Jury not present.)

25 **THE COURT:** How long is the call, Mr. Clemons?

1 **MR. JOHNSON:** I think it's between four and eight
2 minutes.

3 **MR. CLEMONS:** Yeah, I didn't think it was too long. I
4 don't think you'll need to hear the whole thing just to see whether
5 it refreshes his recollection. I think eight minutes at the most.

6 **MR. WALKER:** We're asking that you listen to the entire
7 thing because I think the entire thing benefits the --

8 **THE COURT:** How long is the entirety of the thing? What
9 I'm trying to figure out right now is how long we're taking a
10 break.

11 **MR. CLEMONS:** I'm thinking 8 minutes, Judge. I mean, I
12 was going to put enough for them to hear. They said they want to
13 hear the whole clip, so I think it's eight minutes.

14 **THE COURT:** Eight minutes?

15 **MR. CLEMONS:** Yeah, so I think 15 should be more than
16 enough.

17 **THE COURT:** 9:45 be back here. I'm listening to the
18 whole clip.

19 **MR. CLEMONS:** He's going to stay in here while we play
20 it; right?

21 **THE COURT:** We're going to give him headphones to listen
22 to it.

23 **MR. CLEMONS:** I just want to make sure he knows.

24 **MR. JOHNSON:** You want me to get the computer up there
25 and give him some ear buds?

1 **THE COURT:** Yes. Would that be okay, Mr. Landry? We're
2 going to bring you a computer with some ear buds to listen to this
3 phone call, and then it's to refresh your recollection about a
4 conversation that took place that you referenced you may not
5 remember the specifics about. And then we're going to resume your
6 testimony after that. Okay?

7 **THE WITNESS:** Yes, sir.

8 **THE COURT:** Yes, Mr. Johnson, you can do that.

9 You remain under oath during this break.

10 (A conversation is held off the record.)

11 **THE COURT:** Mr. Landry is going to get reading glasses.
12 He's going to come back. Mr. Johnson can then, or Mr. Clemons can
13 then bring him the headphones to listen to the audio clip.

14 **MR. CLEMONS:** Judge, what we discussed, I think we're
15 going to put the laptop right there and he'll be able to hear it on
16 the laptop.

17 **THE COURT:** Okay. That will work.

18 **MR. CLEMONS:** We'll put it right there for him.

19 **THE COURT:** Court will be in recess until 9:45.

20 (Off the record at 9:31 a.m.; resumed at 9:46 a.m.)

21 **THE COURT:** Mr. Landry, were you able to hear the call
22 they were talking about?

23 **THE WITNESS:** Yes, sir.

24 **MR. WALKER:** Can I do one housekeeping matter?

25 **THE COURT:** Yes, sir. I'm sorry. One minute. All

1 right. Mr. Walker?

2 **MR. WALKER:** The Exhibit 003-001, you asked to be able to
3 listen to it?

4 **THE COURT:** Yes, sir.

5 **MR. WALKER:** I'm going to have Laura, Ms. Bourque, e-mail
6 it, and it was suggested we'll e-mail it to Mona Hardwick in your
7 office that way you'll be able to review it over lunch.

8 **THE COURT:** I think Kaleb, my law clerk, may have already
9 queued it up for me to listen to at lunch. That would be helpful
10 in case he couldn't find it or something.

11 **MR. WALKER:** We'll have it for you.

12 **COURTROOM SECURITY OFFICER:** All rise for the jury.

13 (Jury present.)

14 **THE COURT:** All right. Please be seated.

15 Mr. Clemons, you may proceed.

16 **MR. CLEMONS:** Thank you, Judge.

17 BY **MR. CLEMONS:**

18 Q. Mr. Landry, over the break, you had an opportunity to listen to
19 the phone call with Dusty Guidry in which Zaunbrecher was discussed
20 that we talked about prior to the break; correct?

21 A. That is correct.

22 Q. And you had a chance to hear it clearly; correct?

23 A. Yes, sir.

24 Q. And in that recording, it was you calling Dusty Guidry;

25 correct?

1 A. I think so.

2 Q. And you called Dusty Guidry because you had gotten a call from
3 Mr. Terry Rider; correct?

4 A. That's what it seems like, yes, sir.

5 Q. But that's what you said. You said, "Terry Rider called me";
6 correct?

7 A. That's correct.

8 Q. And you told Dusty Terry Rider called you about Bradley
9 Zaunbrecher; correct?

10 A. That's correct.

11 Q. And you told Dusty he called you about Bradley Zaunbrecher
12 because Bradley Zaunbrecher had just picked up a DWI third offense;
13 correct?

14 A. Yes, he obtained another one.

15 Q. And you knew that Zaunbrecher was already in the PTI program;
16 correct?

17 A. That's correct.

18 Q. And Zaunbrecher did not immediately get kicked out of the PTI
19 program after getting that arrest, did he?

20 A. Say it again.

21 Q. After getting arrested, he did not get immediately put out of
22 the program, did he?

23 A. No, sir.

24 Q. Zaunbrecher. He didn't; right?

25 A. Correct.

1 Q. And that arrest, to be clear, was for DWI third offense;
2 correct?

3 A. I don't recall what he was arrested for, sir.

4 Q. But don't you say on the call he was arrested for DWI third?
5 You just heard that; right?

6 A. If you say so, yes, sir.

7 **MR. CLEMONS:** Okay. Your Honor, at this time I certainly
8 feel like the witness has been impeached based upon what he said
9 today as well as what he testified to yesterday, and we certainly
10 think at this time the exhibit is admissible. It's a recording
11 that we got from the Government in discovery. It's based on the T3
12 recording that they had of Dusty Guidry.

13 **THE COURT:** So you're still wanting to play the call?

14 **MR. CLEMONS:** Yes, sir.

15 **THE COURT:** He just testified about what the call said
16 and that's exactly what's permissible under the rules of evidence.

17 **MR. CLEMONS:** But Judge, no, he just said he doesn't even
18 recall a DWI third. I think it's important now that he's been
19 impeached for the jury to be able to hear the call to evaluate his
20 credibility, Judge. It's a five-minute call.

21 **THE COURT:** No. Overruled.

22 **MR. CLEMONS:** Judge, you can just note our objection.

23 **THE COURT:** Okay. We're going to follow the rules of
24 evidence, Mr. Clemons, in this trial. Do you understand?

25 **MR. CLEMONS:** I understand that.

1 **THE COURT:** And you did not impeach this witness and
2 there is no other rule that you have given me to enter that
3 recording into evidence in this trial. Okay?

4 **MR. CLEMONS:** Well, Judge --

5 **THE COURT:** So you're going to have to review the rules
6 of evidence and make sure you follow them throughout the course of
7 the trial.

8 **MR. CLEMONS:** Judge --

9 **THE COURT:** All right. Continue.

10 **MR. JOHNSON:** Judge, may I speak?

11 **THE COURT:** No. Sit down.

12 **BY MR. CLEMONS:**

13 Q. Now, that refreshed your recollection about Mr. Rider, didn't
14 it?

15 A. Yes.

16 Q. And he was a supporter of yours in Acadia Parish, wasn't he?

17 A. He was.

18 Q. And you didn't know you were being recorded by the FBI, did
19 you?

20 A. No, sir.

21 Q. And you would agree, Mr. Landry, that people have talked
22 different when they know they are being recorded and when they know
23 they are not, don't they?

24 A. Correct.

25 Q. And isn't it true that as a politician sometimes you must do

1 political favors for people; right?

2 A. Yes, sir.

3 Q. You have to reward your supporters occasionally, don't you?

4 A. I don't call it a reward, sir.

5 Q. I'm sorry?

6 A. I said I wouldn't call it a reward.

7 Q. What would you call it?

8 A. I try to do the right thing, and when you do the right thing, I
9 would think that supporters would appreciate it.

10 Q. Okay. And you're currently running for reelection of district
11 attorney; correct?

12 A. Say that again.

13 Q. You are running for reelection; right?

14 A. I am.

15 Q. You have an opponent, don't you?

16 A. Not a declared opponent, but I understand I do have an
17 opponent.

18 Q. It's going to be Kristian Earles, Judge; right?

19 A. That's correct.

20 Q. Now, you talked yesterday about how busy you were in your
21 office. Do you remember that?

22 A. I did.

23 Q. And you chose, despite being extremely busy, not to appoint an
24 assistant -- a first assistant DA, did you?

25 A. I did not appoint one right away, no, sir.

1 Q. And that first assistant could have helped you with some of
2 these administrative duties, couldn't he or she?

3 A. I pretty much take on all of the duties of the office, sir.

4 Q. My question is --

5 A. Even with a first assistant now, I take on all of the duties.
6 I don't ask first assistant to do anything that the DA should do.

7 Q. But isn't it true that a first assistant could do
8 administrative duties?

9 A. Could if I chose.

10 Q. If you chose to?

11 A. Yes, sir.

12 Q. Your office, is it divided in most offices between a
13 misdemeanor section and a felony section?

14 A. We have felonies, misdemeanors, juvenile, traffic, yes, sir.

15 Q. Let's talk about the felony section. That's where the most
16 heavy lifting, the most high profile cases are; correct?

17 A. In the felony section, yes, sir.

18 Q. And you chose not to have a chief over that felony section,
19 didn't you?

20 A. I have a chief in each track. We have five tracks. One is a
21 drug track. The other four are regular felony tracks. And we have
22 a chief in each track.

23 Q. Help me out. What is a chief in each track? What does that
24 mean, Mr. Landry?

25 A. That means he is running that particular track. It also means

1 that he decides how to allocate cases as they come in. It means he
2 meets with his team, his track team, and make decisions about
3 cases, strategy, and so forth.

4 Q. So he handles a docket and he runs the track that goes on his
5 docket with a certain judge or division; correct?

6 A. He does go over his track and his dockets, yes, sir.

7 Q. How many felony assistant DAs do you have, just about?

8 A. Thirty-four, maybe.

9 Q. But my point is you don't have a section chief to be the lead
10 of all the felony attorneys, do you?

11 A. I do not.

12 Q. Okay. And we spoke earlier, I think maybe even yesterday,
13 about Mr. Barry Sallinger. Do you remember that conversation?

14 A. About what, sir?

15 Q. Barry Sallinger.

16 A. Yes, sir.

17 Q. And you spoke about him yesterday; right?

18 A. I did.

19 Q. And Mr. Sallinger is a very influential local attorney because
20 he handles a lot of DUI cases and DUI defendants; correct?

21 A. I don't know about influential, but he does handle a lot of DI
22 cases.

23 Q. He operates and he has a large percentage of the DUI defendants
24 that your office works with; right?

25 A. Yes.

1 Q. Now, isn't it true that Mr. Sallinger told you that he had a
2 hard time working with Mr. Haynes; correct?

3 A. That's correct, sir.

4 Q. And isn't it true that you chose, along with Dusty Guidry, to
5 go to Mr. Sallinger's office to meet with him; correct?

6 A. I did that, yes, sir.

7 Q. Now, isn't it true normally when you met with defense attorneys
8 they would come to the DA's office? Isn't that true?

9 A. Some of the time, yes, sir.

10 Q. Isn't it true that's where you met with them most of the time?

11 A. Yes, sir.

12 Q. But in this case you chose to go to Mr. Sallinger's office and
13 you didn't tell Mr. Haynes y'all were going to the meeting, did
14 you?

15 A. I believe he knew about the meeting, sir.

16 Q. No. My question is: You didn't tell him about the meeting?

17 A. I don't recollect how he knew about it, but he did know about
18 the meeting.

19 Q. Okay. And you testified that after the meeting, none of Mr.
20 Haynes' authority changed; correct?

21 A. Say that again.

22 Q. You testified that after the meeting, you didn't change any of
23 Mr. Haynes' authority or any of his duties; correct?

24 A. I still didn't get it, sir.

25 Q. Do you recall testifying yesterday about Gary Haynes' authority

1 after you had the meeting with Sallinger? It was I think at the
2 end of your direct testimony.

3 A. Yes.

4 Q. Do you remember that?

5 A. I do.

6 Q. And you told Mr. Loew that none of Mr. Haynes' authority was
7 taken away or changed after the meeting; correct?

8 A. That's correct.

9 Q. But isn't it true that you gave Dusty Guidry the authority to
10 deal directly with Sallinger on all his cases; correct?

11 A. No, sir.

12 Q. So you didn't authorize Dusty to deal directly with Sallinger
13 on his cases?

14 A. Dusty could talk to people about all of the cases in PTI. I
15 don't recall the specific conversation saying that Dusty Guidry was
16 going to handle all the cases for Barry Sallinger.

17 Q. I didn't say anything about a conversation. My question, Mr.
18 Landry, is: Didn't you give Mr. Guidry the authority to deal
19 directly with Mr. Sallinger as far as the cases he had pending in
20 your office?

21 A. No, sir. I didn't do it that way.

22 Q. Okay. Now, Mr. Guidry had no legal training; correct?

23 A. Other than his experience in the pretrial programs, that's
24 correct, sir.

25 Q. But I mean no law school education, is what I mean.

1 A. No, sir.

2 Q. And in one of your 302s, you refer to the coordinators as "the
3 girls." Do you remember that?

4 A. Say that again.

5 Q. In one of your 302s, the coordinators, you know who the PTI
6 coordinators are; correct?

7 A. Right.

8 Q. You do?

9 A. Sir, your voice is a little muffled. I'm sorry.

10 Q. I'll repeat. You know who the PTI coordinators are, don't you?

11 A. Yes, sir.

12 Q. And isn't it true that you refer to them as "the girls"?

13 A. Possibly.

14 Q. You don't know if you use that term about them or not?

15 A. They were all females working in the office, so I'm sure I
16 would have said that.

17 Q. Okay. And isn't it true that Dusty Guidry had authority over
18 the girls, in the program?

19 A. No, sir. That was under Mr. Haynes.

20 Q. So who did Dusty Guidry have authority over if he didn't have
21 authority over the girls?

22 A. He was a consultant, sir, and if the girls asked him questions,
23 if they asked him how to do something, I'm sure that he would give
24 him that advice. So to that extent, yes, he did have that
25 authority.

1 Q. And he also had the authority to decide whether a case was
2 allowed in PTI, didn't he?

3 A. No, sir. That's not what I anticipated. That's not what I
4 expected.

5 Q. Mr. Landry --

6 A. I expected Mr. Haynes to be over all of the PTI program.

7 Q. But Mr. Landry, my question is not what you anticipated or what
8 you expected. We're talking about what happened. Didn't Dusty
9 Guidry have some authority over which cases were allowed into PTI?
10 Isn't that true?

11 A. No, sir.

12 Q. Okay. And you haven't seen any evidence of Dusty Guidry
13 putting cases or rejecting cases from PTI? That's your testimony?

14 A. That's my testimony.

15 Q. And isn't it true Dusty Guidry had some input over which
16 programs the PTI participants had to take? Isn't that true?

17 A. Yes, sir. That was his experience.

18 Q. Okay. So he had that authority?

19 A. Yes, sir.

20 Q. Now, isn't it true that Gary Haynes, as you said yesterday, had
21 full authority? But isn't it true that some of the full authority
22 was also had by Dusty Guidry?

23 A. Not full authority, no, sir. Dusty Guidry got his authority
24 from Gary Haynes.

25 Q. And you would consult with Mr. Haynes on a regular basis;

1 correct?

2 A. From time to time. I wouldn't call it on a regular basis. If
3 there was something unusual that might come up in a case, he might
4 come and talk to me about it. Otherwise, I certainly anticipated
5 that he would be running the pretrial program.

6 Q. But isn't it true that -- well, let's back up.

7 Gary Haynes' office was right next to your office;
8 correct?

9 A. It was.

10 Q. And why did you place him next to you in that office?

11 A. I did not, sir. My recollection is that he lobbied for that
12 office with the office administrator. That's where he wanted to
13 be, sir.

14 Q. So he lobbied for the office, but you could have put him in
15 whatever office you chose; correct?

16 A. That's correct.

17 Q. And just to be clear, so the jury understands, your office and
18 Mr. Haynes' office was separated from the PTI program and that
19 department; correct?

20 A. That is correct.

21 Q. Explain to the jury how that was set up.

22 A. The PTI office, you enter the courthouse on the elevator on the
23 sixth floor, and there are doors separating that particular section
24 of the office from the other section of the office.

25 Q. Okay.

1 A. PTI coordinators are in the section as you come off the
2 elevator.

3 Q. Okay. So in the same office but almost like in a separate
4 wing, I guess would be the best way to put it?

5 A. It is the same office. It's just separated by doors, yes, and
6 walls.

7 Q. And so Gary Haynes was not working side by side with them;
8 correct?

9 A. He was not in that office section, no, sir.

10 Q. Right. And isn't it true that on many days you would come to
11 Mr. Haynes and bring him a note and tell him that you had gotten a
12 call from some supporter or some person about a defendant and you
13 asked Mr. Haynes to look into it to see if you could help that
14 person; correct?

15 A. No, sir. I think it was the other way around.

16 Q. Oh, okay. It was the other way around. Mr. Haynes wanted to
17 help people and he would come to you.

18 A. He would sometimes come to me and talk to me about people who
19 might have contacted him about getting into the program on more
20 occasions.

21 Q. So you're denying that you ever went to him about people who
22 may need help?

23 A. No, sir. I'm not denying that, no, sir.

24 Q. So you agree you did?

25 A. You said on a regular basis, sir. That's what I was answering.

1 Q. So you did it occasionally?

2 A. I didn't consider it a favor, sir.

3 Q. No. I said, "Did you do it occasionally?"

4 A. Occasionally, yes, sir.

5 Q. Okay. Now, Zoila Perez, what was her role? What was her
6 position?

7 A. Say it again.

8 Q. Zoila Perez?

9 A. Yes, sir.

10 Q. What was her title?

11 A. She was a -- we would call her the over all of the coordinators
12 in the office.

13 Q. So she was the supervisor --

14 A. Supervisor.

15 Q. -- of the coordinators?

16 A. Yes, sir.

17 Q. She had a lot of authority in the PTI; correct?

18 A. She did.

19 Q. Let's talk about Barry Petry. Do you recognize that name?

20 A. What was the name again?

21 Q. Barry Petry.

22 A. I've heard the name, sir.

23 Q. Okay. And you recognize the name, don't you?

24 A. Yes, sir.

25 Q. Okay. Tell the jury who Barry Petry was.

1 A. I'm not really sure, sir. I said I recognize the name, but I
2 don't know a lot about Barry Petry.

3 Q. What do you know about him? just to make sure we're talking
4 about the same person.

5 A. I think he was in our program.

6 Q. He was a dentist; correct?

7 A. He was in the program for a period of time, as I appreciate it.

8 Q. Was he a dentist?

9 A. Say it again.

10 Q. Was he a dentist?

11 A. Not hearing you.

12 **THE COURT:** A dentist. Was he a dentist? A dentist?
13 Teeth?

14 **THE WITNESS:** Dentist, yes, I believe so.

15 **BY MR. CLEMONS:**

16 Q. You're not sure?

17 A. Refreshing my memory, I believe he was a dentist.

18 Q. And he was in your program; correct?

19 A. I believe he was, yes, sir.

20 Q. And what do you believe he was charged with?

21 A. I'm not sure. Perhaps a sexual battery, maybe.

22 Q. Perhaps a sexual battery, okay. So he was in your program with
23 a sexual offense, and you knew he was in the program, didn't you?

24 A. I did not.

25 Q. When did you find out?

1 A. I learned about it later, sir.

2 Q. After he was already in the program?

3 A. I think I learned about it after the Government came to my
4 office.

5 Q. After the raid, you learned about it?

6 A. That's correct.

7 Q. Okay. And once you learned about it, who did you go to and
8 discipline for letting this sex offender in the program?

9 A. At that point in time, I'm not sure he was still in the
10 program. I don't recall.

11 Q. Okay. But regardless of whether he was in the program,
12 somebody messed up, according to your theory, by letting him in the
13 program; correct?

14 A. That's correct.

15 Q. And shouldn't that person receive some type of discipline for
16 letting a sex offender in your program?

17 A. Yes, sir.

18 Q. But they didn't, did they?

19 A. That, I don't know. That would have been up to Mr. Haynes.

20 Q. Okay. So if someone violated your PTI program by letting a sex
21 offender in and you found out about it, it would be up to Mr.
22 Haynes whether that person suffered any discipline? That's your
23 testimony?

24 A. As I indicated to you, sir, I didn't find out about it until
25 way later on.

1 Q. Okay. You know Chad Vallo? You know Chad Vallo, don't you?

2 A. Say it again.

3 Q. Chad Vallo.

4 A. Yes, sir.

5 Q. You know Chad, police juror; right?

6 A. From Vermilion Parish.

7 Q. Police juror; right?

8 A. Yes, sir.

9 Q. On your campaign committee for Vermilion Parish; correct?

10 A. Right.

11 Q. When Barry Petry got arrested, he contacted your office about
12 helping Barry Petry, didn't he?

13 A. That, I don't know, sir.

14 Q. You don't deny it, do you?

15 A. I don't know it, sir.

16 Q. Now, let's talk about revenue sharing. We're shifting gears.

17 I think you testified on direct that your office, quote, didn't
18 share any revenue, correct, with vendors; right?

19 A. That's correct, sir.

20 Q. And you told this jury that that would be actually improper;
21 correct?

22 A. That's correct.

23 Q. Now, Zoila Perez, you know her; correct?

24 A. I do.

25 Q. And you know Mr. Burton; correct? David Burton?

1 A. I do.

2 Q. Tell the jury who David Burton was.

3 A. He ran one of the programs for the pretrial program, mostly
4 traffic.

5 Q. And he was a vendor that you inherited from Stutes; correct?

6 A. That's correct. He had already -- he was already in place.

7 Q. And isn't it true that he charged 150, a cost of 150, and of
8 that 150, \$50 for every course and class signed up with him came
9 back to your office? Isn't that true?

10 A. I think there was a portion that came back. I think that's the
11 only one that we received any monies from.

12 Q. So you shared the revenue with Mr. Burton; correct?

13 A. Yes, sir.

14 Q. Okay. So that's different from what you said yesterday when
15 you didn't share any revenue; right?

16 A. I didn't understand we were talking about traffic, sir. That's
17 an entirely different program.

18 Q. But it's still a vendor; correct?

19 A. He's a vendor.

20 Q. And he's a PTI vendor; correct?

21 A. Yes, sir.

22 Q. Okay. And you didn't tell the FBI, when you interviewed them,
23 about David Burton and sharing revenue with David Burton? You
24 didn't mention that to the FBI, did you?

25 A. If they asked the question, sir, I'm sure I did answer it,

1 because I cooperated with them.

2 Q. Zoila Perez told them about that, didn't she? About the
3 revenue sharing?

4 **MR. LOEW:** Foundation for any knowledge of what someone
5 else said to the FBI.

6 **THE COURT:** You can rephrase. Ask him if he knows.

7 **BY MR. CLEMONS:**

8 Q. You know that several people in your office spoke to the FBI as
9 a part of this investigation, don't you?

10 A. I understand that, yes, sir.

11 Q. And you know that Zoila Perez spoke to the FBI; correct?

12 A. Yes, sir.

13 Q. And at one of your many meetings with the FBI, they told you
14 some of the people they had already talked to; correct?

15 A. Say that again.

16 Q. At one of your meetings with the FBI, the agent mentioned to
17 you some of the people in your office that he had already spoken
18 to; correct?

19 A. I knew when people were from the office were talking to FBI
20 because they would check in with me to let me know they wouldn't be
21 in the office because they had to go somewhere to discuss these
22 matters.

23 Q. And you know Zoila Perez spoke with them; correct?

24 A. Say it again.

25 Q. You know Zoila Perez spoke with the FBI?

1 A. Yes, sir. I answered that previously.

2 Q. Okay. And Mr. Burton created websites and programs, online
3 programs for several DA's offices around the state; correct?

4 A. Yes.

5 Q. I'm sorry?

6 A. I said, "Yes."

7 Q. And that those websites and programs generated a lot of money
8 for them and those DA's offices; correct?

9 A. I don't know what you mean by a lot of money, sir. I'm sure it
10 made money for programs, yes, sir.

11 Q. And he was an associate of Mr. Dusty Guidry, wasn't he, Mr.
12 Burton?

13 A. Say that again.

14 Q. He was an associate of Dusty Guidry?

15 A. I would say yes.

16 Q. Okay. He wasn't an associate of Gary Haynes, was he?

17 A. Sir, I'm having a hard time. Your voice is muffled.

18 **THE COURT:** I think actually, Mr. Clemons, I think if
19 you're a little further from the microphone, I think maybe the
20 vibration is messing the witness up.

21 **MR. CLEMONS:** I'll move back.

22 **THE COURT:** And maybe slow down just a little bit, too.

23 **MR. CLEMONS:** I will, Judge. I'm just being conscious --
24 I know how you are about time.

25 **THE COURT:** We don't want every question having to be

1 asked twice. It's slowing things down immensely.

2 **MR. CLEMONS:** Well, I'll do whatever I can, Judge.

3 **BY MR. CLEMONS:**

4 Q. Now, my question is about Mr. Burton. He wasn't an associate
5 of the defendant, was he? Gary Haynes, was he?

6 A. What do you mean by an associate?

7 Q. Friends, knowledge. Gary Haynes didn't know him, but Dusty
8 Guidry knew him prior to you being DA; correct?

9 A. No, sir. I think they both knew him.

10 Q. So you think Haynes -- well, if you're not sure, don't -- you
11 think Haynes knew Burton prior to you becoming DA? That's your
12 testimony?

13 A. Prior to becoming the DA, I don't know, sir.

14 Q. But you know Dusty Guidry knew him prior to; correct?

15 A. I don't know that for sure.

16 Q. And you know that he was a vendor under Keith Stutes; correct?

17 A. That, I knew, and that was the reason why we kept him on.

18 Q. Now, after Stutes -- I'm sorry. After you got elected or
19 during the campaign, at any point did you sit down with Mr. Stutes,
20 discuss the vendors, and say, Keith -- I'm assuming you knew Mr.
21 Stutes prior to getting elected; right?

22 A. Right.

23 Q. I'm sorry?

24 A. Yes.

25 Q. Did you sit down with Mr. Stutes? Did y'all have a successful

1 transition, a smooth transition?

2 A. Yes, sir. We did.

3 Q. And so you sat down with Mr. Stutes and talked about all
4 aspects of the office; correct?

5 A. Pretty much.

6 Q. Because you had been out of the office for how many years, just
7 about?

8 A. Six.

9 Q. Okay. So office had changed a lot since you left; correct?

10 A. They did change.

11 Q. So you and Keith sat down and talked about operations. Did
12 y'all talk about vendors and say, "Hey, Keith, I see about
13 four-five vendors. Tell me about these vendors -- why you use
14 these? Should I consider changing vendors?" Did you have that
15 conversation with him?

16 A. I can't recall that kind of conversation, no, sir.

17 Q. But don't you think that would be an important conversation,
18 people that your office is doing business with behind money? Don't
19 you think that would be important to talk to the DA about why
20 you're using these and whether you were going to change any or
21 bring anymore in?

22 A. Mr. Stutes had a very good reputation, very good reputation for
23 hiring people. I was very comfortable with the fact that vendors
24 that he used would be good vendors for my program. And certainly I
25 knew that if I wanted to change that, I could.

1 Q. But who was the PTI director under Mr. Stutes?

2 A. I think Ms. Perez.

3 Q. Who?

4 A. Ms. Perez, I think.

5 Q. Oh, Zoila Perez?

6 A. Yes. And I think his -- I think Danny Landry was the ADA who
7 kind of ran the program as an ADA for Mr. Stutes.

8 Q. Okay. That's my question. I know Ms. Perez been there a long
9 time. But I'm talking about, she wasn't the director under Stutes.

10 You're saying you think Danny Landry was the so-called director?

11 A. I don't think he was a director. I think he was, as I just
12 said, I think he was the ADA who people went to in the program.

13 Coordinators, Ms. Perez, anybody if they had a question, I think
14 Mr. Landry was the point person for that.

15 Q. Okay. So you testified on direct that you basically adopted
16 the PTI guidelines that Mr. Stutes had under his administration.

17 Remember that testimony?

18 A. I do.

19 Q. Okay. So in adopting those guidelines, you read them before
20 you adopted them; correct?

21 A. No, sir. I can't say that I read the entire manual, no, sir.

22 Q. The manual is kind of long, huh? About 70-something pages?

23 A. It's quite a few pages.

24 Q. Okay. Did you discuss Mr. Stutes, "Hey, Keith, just break this
25 down and give me the highlights of the program"? Did you discuss

1 it with him?

2 A. I can't remember that, no, sir.

3 Q. So you adopted it without reading it fully, and you have no
4 recall of discussing it with Stutes.

5 What about a meeting with the staff so somebody can do a
6 PowerPoint presentation, hit the highlights of the program? This
7 is what you do, this is what you don't do. Did you do that after
8 you took over to discuss the PTI and the guidelines?

9 A. We did have a discussion with the staff, and I did go over some
10 of the guidelines for the program, yes, sir.

11 Q. When was that?

12 A. I can't remember that exact date, sir. It was sometime after I
13 took office. It was a transition period. We had a lot of things
14 to do. We had a lot of offices to visit. So I can't remember the
15 exact date, but it was sometime after I took office, for sure.

16 Q. And you went over the guidelines with the staff?

17 A. I went over some of the guidelines as I recalled them, yes,
18 sir, because by that time I had looked at some of those guidelines
19 before the meeting.

20 **MR. CLEMONS:** Now, I'm going to ask Mr. Douget to pull up
21 exhibit -- let me get my list just one minute, Mr. Landry.

22 **BY MR. CLEMONS:**

23 Q. And you're familiar with these guidelines when you see them
24 again, won't you?

25 A. Yes.

1 **MR. CLEMONS:** Can you pull up, just for the witness to
2 see, Defense Exhibit Number 9, Mr. Douget?

3 **BY MR. CLEMONS:**

4 Q. Is it popping up for you, Mr. Landry?

5 A. What I'm seeing is Victim and Witness Assistance Programs
6 Policy Manual.

7 Q. That cover sheet, do you see that?

8 A. Yes, sir. That's what it says.

9 Q. And wasn't that the cover sheet of the section that's where the
10 PTI program falls under?

11 A. Sir, I can't remember that, but I think so. It would make
12 sense.

13 Q. If I show you a few more pages, would that refresh your
14 recollection?

15 A. Yes, it would.

16 Q. Give me one minute, Mr. Landry.

17 **MR. CLEMONS:** Can you show him page 12, Mr. Douget? It's
18 a very, very long document, so I just want to make sure the one I
19 reviewed is the one you're talking about.

20 **BY MR. CLEMONS:**

21 Q. Can you see page 12?

22 A. Yes, sir. I have it.

23 Q. And does page 12 look like the PTI guidelines that we're
24 talking about?

25 A. Yes, sir. It does.

1 Q. Okay. And those are the same guidelines that you adopted for
2 your staff; correct?

3 A. Yes, sir.

4 **MR. CLEMONS:** Your Honor, at this time I would like to
5 offer Government Exhibit Number 9, which is PTI guidelines that the
6 witness has testified that he adopted from Mr. Stutes that we
7 received per subpoena duces tecum.

8 **THE COURT:** Any objection?

9 **MR. LOEW:** No objection, but we would just like to see
10 what the entire exhibit is. Could we just have one minute to see
11 how many pages it is, if it's in the entirety, and what is actually
12 being admitted.

13 **THE COURT:** Sure. Mr. Clemons, do you have a copy for
14 the Government to look at on you?

15 **MR. CLEMONS:** I can make him look at my copy, Judge. Oh,
16 we got a copy.

17 **MR. LOEW:** No objection, Your Honor.

18 **THE COURT:** Without objection, let it be entered. You
19 may publish it to the jury.

20 **MR. CLEMONS:** Thank you, Judge.

21 **BY MR. CLEMONS:**

22 Q. We can start with that page, Mr. Landry. See that page, page
23 12?

24 A. Yes, sir.

25 Q. And just explain to the jury. Just tell the jury generally

1 what this is.

2 A. Well, it says that pretrial services are available for cases
3 handled by the office. We first review the case. The case will be
4 reviewed first to meet any ethical requirements, make sure we have
5 a good, valid charge. We don't want to put somebody in pretrial if
6 they're not going to be charged. It also instructs the ADA to file
7 a motion to continue the proceedings without date if accepted in
8 the program.

9 Q. Okay. I don't need you to go through it in detail. That's
10 generally what this policy is setting out on that page; right?

11 A. That's correct.

12 Q. Okay. And the policy also sets out how much authority that the
13 DA has for prosecution of charges in his jurisdiction. Do you
14 remember that?

15 **MR. CLEMONS:** Get to page 18. It's 123 Bates stamp.
16 It's going to be 18 of the document. There we go. Can you
17 highlight that bottom paragraph, Mr. Douget? There we go.

18 **BY MR. CLEMONS:**

19 Q. Can you read that bold-printed portion for us, Mr. Landry?

20 A. Yes, sir. I see it.

21 Q. Can you read it for the record?

22 A. [As read] "District attorney or his designated assistant shall
23 have charge of every criminal prosecution by the State in his
24 district as to Article 61 of the Code of Criminal Procedure."

25 **MR. CLEMONS:** And next we're going to go to page 124.

1 And if we can highlight the bottom of that full paragraph where it
2 talks about the DA's authority for the PTI program. Go to the
3 bottom of that paragraph, Mr. Douget.

4 **THE WITNESS:** Page 19, sir?

5 **MR. CLEMONS:** Yes, sir.

6 Can you highlight that? There we go. Go to the bottom
7 of that paragraph. Down, down. There we go.

8 **BY MR. CLEMONS:**

9 Q. Read that "most importantly" section.

10 A. Which portion you want me to read?

11 Q. You see where it starts with, "Most importantly..."

12 A. Okay. [As read] "Most importantly, the decision whether to
13 admit a defendant in the pretrial diversion program is solely
14 within the discretion of the district attorney as part of his
15 authority not to institute prosecution."

16 Q. Explain to the jury what that means.

17 A. That means exactly what I just previously said. We want to
18 make sure that there is a valid charge ethically for us to go
19 forward with a criminal case. And if not, then we don't put them
20 in pretrial.

21 Q. But it also says you have authority not to institute
22 prosecution. So regardless of pretrial or not, if someone is
23 arrested you determine whether to initiate prosecution; correct?

24 A. That is correct, sir, as do my ADAs.

25 Q. But it says at the discretion of the DA. It doesn't say any

1 ADAs; correct? It says the DA. That's what that case law says;
2 right?

3 A. I haven't read that case, sir.

4 Q. I'm saying what the quote says.

5 A. That's what the quote says, yes, sir.

6 Q. I'm sorry, go ahead.

7 A. I said, "That's what the quote says."

8 **MR. CLEMONS:** You can take that down, Mr. Douget.

9 **BY MR. CLEMONS:**

10 Q. What about the vendors? Did you have any contracts or
11 memorandums of understanding with the vendors?

12 A. We kept the same contracts that Mr. Stutes had with the
13 vendors, the ones that we kept, yes, sir.

14 Q. So it's your testimony that all the vendors you maintained, you
15 had contracts with all of those vendors? That's your testimony?

16 A. With the vendors that Mr. Stutes had, yes, sir. We just
17 assumed those contracts. We used those same contracts with the
18 same terms and conditions.

19 Q. Are you assuming that Stutes had contracts? Or are you saying
20 that we just took on those same contracts?

21 A. No. I was told he did have contracts.

22 Q. Who told you that?

23 A. Mr. Haynes and Ms. Perez, I believe.

24 Q. Okay. But as the DA, it's your testimony you never saw those
25 contracts? You just took somebody's word for it?

1 A. I may have seen the contracts, sir. I'm not positive. It's
2 been a few years now.

3 Q. But you would agree that something as important as money and
4 how it is going to be transferred and in some cases shared should
5 be documented in some type of document; correct?

6 A. Yes, I would agree with that.

7 Q. When you took over, in the transition how many new assistant
8 DAs did you bring in?

9 A. Two or three, I believe.

10 Q. Do you recall who they were?

11 A. I think Mr. Fritz Welter was one. I think Mr. Randal Menard
12 was another. So I guess it was two. Those are the two that I
13 remember.

14 Q. Okay.

15 A. Because I kept -- most of the assistant DAs who were working
16 for Mr. Stutes, I kept them on board, most of them.

17 Q. And did you have to lay any off?

18 A. One assistant DA went on to another district. I didn't,
19 personally, lay anybody off.

20 Q. Okay. And your website talks about the pretrial intervention
21 program, doesn't it?

22 A. Yes, it does.

23 **MR. CLEMONS:** Can we show, Mr. Douget, the witness,
24 Defense Exhibit 12, just for the witness?

25 **THE WITNESS:** Are we going to look at an exhibit?

1 **MR. CLEMONS:** Yes, sir. He should be putting it up.

2 Yeah, he put it up.

3 **BY MR. CLEMONS:**

4 Q. You recognize that, don't you?

5 A. Let me look at it, please.

6 Q. Go ahead. Yes, sir. Take the time you need.

7 A. Yes, sir. I'm familiar with it.

8 Q. Let's talk for a minute. Who drafted that?

9 A. Say it again.

10 Q. Who drafted that document?

11 A. I don't know, sir.

12 Q. But it's on your website; correct?

13 A. It should be on the website.

14 **MR. CLEMONS:** Your Honor, at this time I would like to
15 offer Defense 12 from his website.

16 **THE COURT:** Any objection?

17 **MR. LOEW:** Is it just that single page?

18 **MR. CLEMONS:** Yes, sir. Yeah, not the whole thing, just
19 that page, cover sheet.

20 **MR. LOEW:** No objection.

21 **THE COURT:** All right. The date on this is this year.

22 Do we know if this was on the website during the relevant time
23 period, Mr. Clemons?

24 **MR. CLEMONS:** No, sir. I can certainly ask the witness.

25 **THE COURT:** Ask him that question. There's no objection,

1 but I do want to make sure it is relevant.

2 **MR. CLEMONS:** Sure.

3 **BY MR. CLEMONS:**

4 Q. You still have it in front of you; right?

5 A. Yes, I do.

6 Q. Okay. And it's your testimony that you don't know who wrote
7 the document. Do you know who put up your website?

8 A. That was put up before I took office, sir. What my
9 recollection is, it took us a little while to get a handle on it,
10 to be able to get to it, because the person who was controlling the
11 website was no longer in the office, and it took a lot of back and
12 forth before we finally got our hands on it.

13 Q. But your website hadn't been changed recently, is my point;
14 correct? As far as you know?

15 A. I can't tell you what's on the website right now. I don't view
16 it very often, sir.

17 Q. But my question is: You have no knowledge of it being changed
18 recently, do you?

19 A. I don't have any knowledge of that.

20 Q. Now, I want to talk about that first paragraph.

21 **THE COURT:** We will admit that exhibit and you can
22 publish it if you'd like, Mr. Clemons.

23 **MR. CLEMONS:** Yes, Your Honor. I appreciate it.

24 Mr. Douget, can you pull up that first paragraph? I have
25 a couple of questions about that one.

1 **BY MR. CLEMONS :**

2 Q. Are you able to read that first paragraph?

3 A. Yes, sir.

4 Q. I got a question about it. Do you need time to read it? Or
5 are you ready for the question?

6 A. You want me to read it?

7 Q. No. Do you need -- yeah, take a minute to read it because I
8 don't want you to not understand my question. Just let me know
9 when you're ready.

10 A. Okay. Sir, I have read it.

11 Q. All right. Now, it says, "for some first-time offenders." The
12 implication is that the program is limited not only to first-time
13 offenders but some first-time offenders; correct?

14 A. That is correct.

15 Q. But it's true, Mr. Landry, that the program is not limited to
16 first-time offenders, is it?

17 A. The ADAs and myself certainly have the discretion under the
18 state law.

19 Q. So the answer would be it's not limited solely --

20 A. That's right. It's possible that perhaps somebody with more
21 than one offense might be admitted to the program.

22 Q. But not only is it possible, Mr. Landry, isn't it true that
23 under your administration several people who were not first-time
24 offenders were allowed in the program?

25 A. I'm not sure about several, sir. If so, if you're talking

1 about the time period when I first took office, they would have
2 been admitted by Mr. Haynes.

3 Q. Oh, okay. So anybody who was admitted who wasn't a first-time
4 offender, it was because it was under Mr. Haynes' watch; correct?

5 A. Mr. Haynes was given the authority to run the pretrial program,
6 sir. I expected him to run it. I expected him to run it
7 correctly.

8 Q. Okay.

9 A. So if anybody was admitted at that point in time, it would have
10 been under Mr. Haynes.

11 Q. But you were consulted about some cases, weren't you, just like
12 Bradley Zaunbrecher; right?

13 A. That is correct, sir.

14 Q. And Mr. Zaunbrecher wasn't a first-time offender; right?

15 A. He was not.

16 Q. And he was not kicked out of the program after the arrest, was
17 he?

18 A. No, sir.

19 **MR. CLEMONS:** Now, I want you, Mr. Douget, pull up the
20 second paragraph. There we go.

21 **BY MR. CLEMONS:**

22 Q. Read that, Mr. Landry. I got a couple of questions.

23 A. Okay.

24 Q. According to your website, who has the sole discretion? It
25 says voluntarily and solely at whose discretion whether someone is

1 allowed into the program?

2 A. District attorney.

3 Q. And that would be you?

4 A. Yes, sir.

5 **MR. CLEMONS:** Last thing, let's get to the next short
6 paragraph. I think it's just one sentence, Mr. Douget. I think it
7 starts "Reoffenders..."

8 **BY MR. CLEMONS:**

9 Q. Read that for us, Mr. Landry. Read it for the record.

10 A. [As read] "Reoffenders will be immediately discharged from the
11 program and their criminal case will proceed to prosecution."

12 Q. Okay. But that wasn't done in every case, was it?

13 A. No, sir. Mr. Haynes didn't do that in every case.

14 Q. And you didn't tell Mr. Haynes to do it in Bradley
15 Zaunbrecher's case, for sure, because we heard the call; right?

16 A. I heard the call.

17 Q. Right. And you didn't tell Mr. Haynes immediately to kick out
18 Bradley Zaunbrecher, did you?

19 A. No, sir. I don't recall that, no, sir.

20 Q. Now, I want to talk just briefly about some of the records that
21 we received from your office. And you're familiar that my office
22 issued a public records request directly to you on August 5th?

23 A. Yes, sir. I am familiar with it.

24 Q. And the e-mail went directly to you; correct?

25 A. We are doing our best to fulfill that request for you, sir.

1 Q. Oh, no. But my question is: The e-mail was directed directly
2 to you, not to somebody else in the office? You got the e-mail?

3 A. I got the e-mail, sir.

4 Q. And isn't it true that Mr. Kloch advised Mr. Haynes to pay a
5 thousand dollars, and he paid that to get those records, correct,
6 on August 18th?

7 A. Yes, sir.

8 Q. And despite that, isn't it true that Mr. Haynes did not get
9 those records until a month later on September 5th? Isn't that
10 true?

11 A. Sir, the records were sent to you as soon as we could. Mr.
12 Kloch was designated by my office to fulfill that request. And he
13 actually got on the phone with you at some point in time and asked
14 you to please prioritize what you wanted because it was a very
15 lengthy and cumbersome public records request. Certainly would
16 have fit under some of the exceptions, but we wanted to fulfill it
17 as best we could. This case has been pending since '22 and I
18 thought that public records request certainly came in late. But we
19 did everything we could to get you those records. You actually
20 issued a subpoena duces tecum afterwards which was a duplicate of
21 some of the records we had already sent to you. And we fulfilled
22 that, also. And we are still working on your request, sir.

23 Q. Well, good, and we appreciate it. Let's talk about that since
24 a subpoena duces tecum was a court order that we had to issue
25 because we wanted to get the records. Do you recall getting that

1 subpoena duces tecum?

2 A. It was a court order, yes, sir.

3 Q. No. The question is: Do you recall receiving that?

4 A. The subpoena duces tecum, you're talking about?

5 Q. Yes, sir.

6 A. Yes, sir. I do.

7 Q. On August 27th, and you complied with it. It was signed and
8 ordered by Judge Joseph, and you complied on August 29th; correct?

9 A. We sent it in on a timely basis, I think before the due date,
10 is my recollection.

11 Q. Now, also you mentioned that Mr. Kloch asked me to prioritize
12 the records, and there were a lot, and I did that; correct?

13 A. Yes, sir. That's my understanding.

14 Q. And I put at the number one thing that we want are the PTI
15 guidelines and forms. Do you remember that?

16 A. No, sir. I don't.

17 Q. Okay. You don't dispute it, do you?

18 A. I don't remember it and I don't dispute it.

19 Q. Okay. So those guidelines and forms, those would be easy to
20 grab and send to me; correct? Your PTI guidelines and forms?

21 A. Mr. Kloch, at that point in time, sir, was in charge of
22 fulfilling your request. If they were easy for him, okay, but I
23 don't know that for a fact.

24 Q. Okay. And you talked on direct about the cost of PTI. And
25 we're going to discuss that briefly. I think you said it was a

1 thousand dollars' entry fee; correct? Do you remember that
2 conversation?

3 A. For one of the programs, yes, sir.

4 Q. I'm going to ask you to look at, only for the witness -- just
5 one minute -- Defense Exhibit Number -- I think it's Number 10.

6 **MR. CLEMONS:** Can you give Number 10 just for the
7 witness, Mr. Douget? And I know that page is very blurry, but
8 that's how we got it. I'm going to give you a couple other pages.
9 There we go.

10 **BY MR. CLEMONS:**

11 Q. Do you recognize that form?

12 A. Yes, sir. I think it's a form that we hand out.

13 Q. Okay. What does it say at the top?

14 A. Say it again.

15 Q. What does it say at the top of the form?

16 A. I'm still not getting you, sir.

17 Q. What does it say at the top of the form?

18 A. "OWI pretrial intervention services, 15th Judicial District
19 Court, District Attorney's Office Enrollment and Participation
20 Agreement."

21 Q. Okay. And that looks like the form that you were talking about
22 on yesterday; correct?

23 A. It looks like a form that we use in the office, yes, sir.

24 Q. And I'm going to pull up a --

25 **MR. CLEMONS:** And just for the record, these are the ones

1 we got pursuant to the subpoena. I'm going to show you a better
2 copy, Mr. Landry. Could you pull up page 276, Bates stamp. And
3 blow it up a little bit.

4 **BY MR. CLEMONS:**

5 Q. Is that a better copy for you to see?

6 A. Yes, sir, that's a better copy.

7 Q. So that's your form; correct?

8 A. That is a form, yes, sir, from my office.

9 **MR. CLEMONS:** Okay. Judge, at this time I'd like to
10 offer Defense Exhibit Number 10.

11 **THE COURT:** Any objection? Is it just this one page?

12 **MR. CLEMONS:** It's like 10 pages, Judge. I'm sorry.
13 Don't hold me to that. It's 18 pages. This is their PTI forms
14 that we received pursuant to the subpoena duces tecum that the
15 Court issued.

16 **THE COURT:** Let's make sure the witness can identify all
17 the 18 pages and not just half of the first page.

18 **MR. CLEMONS:** Well, yes, sir. Mr. Douget, can you
19 scroll?

20 **THE COURT:** Do you have a hard copy for him, to hand to
21 him?

22 **MR. CLEMONS:** Yes, sir. I can approach, Judge?

23 **THE COURT:** Yes.

24 **BY MR. CLEMONS:**

25 Q. (Tendered.) I represented it is 18 pages. Don't hold me to

1 that. Just flip through those and see if you recognize those as
2 being forms that your office used for PTI.

3 A. The first two pages are pretty hard to read, but...

4 Q. Mr. Landry, you're referring to these two (indicating)?

5 A. Yes, sir.

6 Q. I just wanted to follow you.

7 A. I've reviewed the forms for you, sir.

8 Q. Thank you, Mr. Landry. I appreciate that.

9 Now, aren't those the forms in your office that we
10 received pursuant to the subpoena that are used by the pretrial
11 intervention coordinators of people in the program, in your office?

12 A. Yes, sir. Those look like the forms.

13 **MR. CLEMONS:** I would like to offer that exhibit, Judge.

14 **THE COURT:** Any objection?

15 **MR. LOEW:** Your Honor, may I see the hard copy that the
16 witness has so I can see all the pages? If I haven't seen them
17 yet.

18 **THE COURT:** Okay.

19 **MR. CLEMONS:** Can I approach, Judge?

20 **THE COURT:** Yes.

21 **MR. CLEMONS:** And we gave them the page numbers on our
22 exhibits.

23 **THE COURT:** All right. Well, let's hurry this up.

24 **MR. LOEW:** No objection.

25 **THE COURT:** All right. Without objection, let it be

1 entered. And it can be published.

2 **BY MR. CLEMONS:**

3 Q. Mr. Landry, do you prefer to work from the hard copy or from
4 the screen?

5 A. I have no preference, sir.

6 Q. Okay. Because I'm going to give this back to the owner.

7 All right. Mr. Landry, we're going to turn --

8 **MR. CLEMONS:** Mr. Douget, you're going to help me turn to
9 page 276. Can we blow up, like, just the first third? Oh,
10 perfect.

11 **BY MR. CLEMONS:**

12 Q. You able to see it, Mr. Landry?

13 A. I can see it on the screen, sir.

14 Q. Okay. Tell the jury what this form is for.

15 A. The form is given to a participant in the pretrial diversion
16 program.

17 Q. Charged with what?

18 A. This page seems to indicate the fee being charged for the
19 offense that the person is in the program for.

20 Q. And people who use this form are in the program for what,
21 though? is the question.

22 A. This looks like the OWI/DUI intervention services form.

23 Q. Okay. And what is the fee for that?

24 A. 1,000.

25 Q. And you got a supervision fee. What is that? Where does that

1 1,000 go? Who gets it?

2 A. 1,000. The supervision fee is 180.

3 Q. No. I backed up, Mr. Landry. Where does the \$1,000 fee go? I
4 get charged with DUI; you're gracious enough to allow me in the
5 program; I come sign up; Zoila tells me, "Okay, Todd, you got to
6 pay a thousand dollars." Where does that go?

7 A. Pretrial diversion account.

8 Q. But to your office?

9 A. In my office, yes, sir.

10 Q. That's what I wanted to be clear. That thousand goes to your
11 office?

12 A. That's correct.

13 Q. Okay. Go ahead. Supervision fee?

14 A. \$180.

15 Q. What is that for?

16 A. It's called a supervision fee. It's an extra fee we charge for
17 supervising the participant in the program.

18 Q. Who does that go to?

19 A. Same thing, sir, pretrial diversion account, my office.

20 Q. Okay. Breathalyzer fee, who gets that? 125?

21 A. I believe that fee goes to the police agency who has
22 investigated that offense. It comes through our office, but then
23 we relay it to either the city police, the sheriff's office, the
24 state police, and so forth.

25 Q. So that's passed on?

1 A. Yes, sir. That's my understanding.

2 Q. Let's talk about that credit card processing fee. It looks
3 like all payments must be by credit or debit card; correct?

4 A. That's correct.

5 Q. And we all know they have processing fees; right?

6 A. Correct.

7 Q. Who gets that 3.99 processing fee?

8 A. The vendor.

9 Q. Which vendor was getting the money in '21? Which vendor had
10 the contract to get the processing fees?

11 A. I don't know the answer to that, sir.

12 Q. But it was at your discretion. You chose which vendor got to
13 be the vendor for processing fees, didn't you?

14 A. I think it was already in effect, sir.

15 Q. But you still got to choose whether you kept him --

16 A. I could have, yes, sir.

17 Q. Okay. So whoever it was you kept him on?

18 A. That's correct, sir.

19 **MR. CLEMONS:** Okay. Now, let's move on to page 280, Mr.
20 Douget.

21 **BY MR. CLEMONS:**

22 Q. And, again, these are records we got from your office pursuant
23 to our subpoena asking for all records related to PTI and its
24 operation. Tell the jury what this is.

25 A. This is the drug pretrial intervention services form for the

1 15th JDC. It's the enrollment and participation agreement.

2 Q. So drug cases can get in pretrial, also; right?

3 A. That is correct, sir.

4 Q. And drug cases run the gamut, from possessing of a half a gram
5 of marijuana to possessing a thousand kilos of heroin, and
6 everything in between are considered in Louisiana drug cases;
7 correct?

8 A. I think that's correct.

9 Q. Right. And it's at your sole discretion what cases, if any,
10 come into the program; correct?

11 A. That is correct, sir.

12 Q. And I notice that the drug pretrial intervention form -- what
13 do you notice in paragraph 1 that's different from the other form
14 we just looked at in paragraph 1?

15 A. I think the fee would be different.

16 Q. Explain. Just one minute. I'm sorry.

17 Now, you say the fee is different. How is it different?

18 I don't see a fee.

19 A. Well, there is no fee on this form, sir.

20 Q. I guess that's the difference, huh?

21 A. I happen to know it's more than the DUI fee.

22 Q. So the fee is on a case-by-case basis at someone's discretion;
23 right?

24 A. That is correct, sir.

25 Q. Because if it's a standard fee, we can say every drug case is

1 \$2,000; correct?

2 A. I don't think it is \$2,000.

3 Q. I'm just using that as a term.

4 A. Okay.

5 Q. Right. Because there is no set fee; right?

6 A. We have a fee. I think it's \$1,500, sir. So there is a set
7 fee.

8 Q. So we have a set fee. Why isn't the set fee on the form?

9 A. I think it is on the form when we give it to the participant,
10 sir.

11 Q. Well, but why can't this be printed, like "15th JDC" is printed?
12 Why can't it just be printed?

13 A. I guess it could be, sir.

14 Q. So you disagree that the form varies in some cases. Some
15 people are charged more and some are charged less. Let me finish
16 my question. You disagree with that?

17 A. No, sir. I don't agree with that.

18 Q. So you disagree?

19 A. I disagree. Yes, sir.

20 Q. Okay. Now, next I want to turn to page 284 --

21 A. Mr. Clemons, we do have the discretion. If somebody comes in
22 and they cannot afford the fee and they bring in the necessary
23 documentation, they could be awarded a scholarship.

24 Q. To cover the fee?

25 A. Yes, sir. Our fee, yes, sir.

1 Q. But I wasn't smart enough to get a scholarship to UL, but if I
2 would have, that scholarship would have paid my tuition. But the
3 tuition wouldn't have changed.

4 A. It has nothing to do with being smart, sir. It has to do with
5 needs.

6 Q. Okay. But the scholarship just pays the fee. It doesn't waive
7 the fee; right?

8 A. Yes, sir. In some cases, it could waive the fee.

9 Q. No. The scholarship can waive the fee or the DA can waive the
10 fee?

11 A. The DA, sir.

12 Q. That's a difference, wouldn't you agree?

13 A. Yes, sir.

14 Q. Okay. Now, let's move on to page 284.

15 **MR. CLEMONS:** And let's just get the top, Mr. Douget.

16 **BY MR. CLEMONS:**

17 Q. Explain to the jury what this form is.

18 A. Felony and Misdemeanor Pretrial Intervention Services
19 Enrollment and Participation Agreement.

20 Q. Again, the fee line is blank.

21 A. Correct.

22 Q. So you're not going to say that there's a standard fee for all
23 felonies and all misdemeanors, are you?

24 A. I think there is a standard fee for felonies and a standard fee
25 for misdemeanors. That would be up to my director, but I think it

1 is a standard fee.

2 Q. It would be up to the director to know the fee or set the fee?

3 A. To set the fee, to put it in, in the blank.

4 Q. So wouldn't the fee for misdemeanors be less than the fee for
5 felonies?

6 A. Say that again.

7 Q. Wouldn't the fee for a misdemeanor offense be less than the fee
8 for a felony offense?

9 A. It probably would be, sir.

10 Q. And you could have just put the fees on the form; right?

11 A. I think by the time the participant signs the form, the fee is
12 in there.

13 Q. It's handwritten?

14 A. These forms show blanks, but I have not seen the blank forms.
15 What I have seen is forms with the fees pencilled in or inked in.

16 Q. They're inked in at the discretion of whoever chooses to write
17 them in; right?

18 A. Those people work under me, yes, sir.

19 Q. Okay. Now, you testified quite a bit about, on the direct
20 examination, about ethics and ethics training; correct?

21 A. That's correct, sir.

22 Q. And you understand my client is not on trial for any ethics
23 violations? You understand that; right?

24 A. That is my understanding, sir.

25 Q. He's on trial for bribery and bribery-related offenses. You

1 understand?

2 A. That's what I understand.

3 Q. And you also know that our state has an ethics board that
4 covers ethics violations by public officials? You know that, don't
5 you?

6 A. Say that again.

7 Q. Our state has an ethics board that regulates the ethics
8 allegations or violations for public officials, like DAs and
9 assistant DAs, don't you?

10 A. That is correct.

11 Q. Now, you would agree, Mr. Landry, that what's so-called
12 unethical is very subjective? That's a subjective term. You would
13 agree with that, wouldn't you? Whether something is, quote,
14 unethical?

15 A. I suppose.

16 Q. Okay. But once it gets to law, it's black and white. The law
17 is black and white. You would agree; correct?

18 A. Yes, sir.

19 Q. Now, you talked about ethics violation and you said that it was
20 against your policy, your ethics policy, for any employees to
21 accept any compensation, any form of payment, anything of value
22 from vendors. Do you remember testifying to that?

23 A. Yes, sir.

24 Q. And you said that anything means anything. Nothing of value
25 could they accept; correct? That's against your policy; correct?

1 A. I think the question was in regards to what I remember from the
2 ethics course online. And that was my recollection, anything of
3 value.

4 Q. But you also told the FBI that if anybody in your office took
5 anything of value, it would be against your office policy. Didn't
6 you tell that to the FBI?

7 A. I don't know if I would have gone to the FBI on an ethics
8 violation, sir.

9 Q. No. When you were questioned by the FBI, Mr. Landry, didn't
10 you tell them that if anybody in my office commits any ethical
11 violations, like taking something from a vendor or taking money
12 from PTI participants, it would be a violation and they would be
13 immediately terminated? You don't remember discussing that?

14 A. It wasn't counts in terms of an ethics violation, sir.

15 Q. Okay. We will cover the interview separately. But, anyway,
16 you would agree with that, wouldn't you?

17 A. Yes.

18 Q. Now, let's talk about Vanessa Bobb. Tell the jury who Vanessa
19 Bob is.

20 A. Domestic violence is a battery or an assault committed on a
21 dating partner or a wife or a husband.

22 Q. Okay. My question is Vanessa Bobb. Who is Vanessa Bobb?

23 A. She is a coordinator in our office.

24 Q. And what does she coordinate?

25 A. Primarily DWIs. She oftentimes goes to Acadia Parish, so she

1 may well have taken in some other cases if it happened in Acadia
2 Parish, since that's the only representative there.

3 Q. She's from Crowley.

4 A. Say it again.

5 Q. She's from Crowley.

6 A. Crowley is in Acadia Parish, yes, sir.

7 Q. No. My question is: She is from Crowley; right?

8 A. I believe she's from Acadia. I think Crowley is correct.

9 Q. Tell the jury who Joe Prejean was in '21 and '22.

10 A. He was a vendor providing services to the program.

11 Q. To your program; correct?

12 A. Yes, sir.

13 Q. And isn't it true that after this raid, you found out that
14 Vanessa Bobb allowed Prejean and Guidry to pay a plumber to fix her
15 parents' gas line at her house; correct?

16 A. Yes, sir. That's correct.

17 Q. So you thought about it and you found out about it; correct?
18 You remember that; right?

19 A. I found out about it, yes, sir.

20 Q. You also found out that Mr. Prejean bought Vanessa Bobb a cell
21 phone; correct?

22 A. No, sir. I don't recall that.

23 Q. Do you recall finding out that Prejean paid to have Vanessa
24 Bobb's parents' roof replaced?

25 A. I think I heard that, yes, sir.

1 Q. Okay. And we'd all agree that's improper for an employee to be
2 getting benefits for her or her parents from a vendor; correct?
3 That's a violation of your office policy; correct?

4 A. I agree with that.

5 Q. And Vanessa Bobb is still working in your office; correct?

6 A. That is correct.

7 Q. And she's still working in the same capacity with vendors and
8 in PTI; correct?

9 A. That is correct.

10 Q. And you never even terminated or even punished Ms. Bobb once
11 you found this out; correct?

12 A. I had a discussion with her, sir. I was satisfied that would
13 not happen again.

14 Q. What about Zoila Perez? You found out she received anything of
15 value from the vendors?

16 A. No, sir.

17 Q. Elisia Osei, found out she received anything?

18 A. No, sir.

19 Q. Now, you also testified on direct several times that you hoped
20 that you would be advised of any major decisions being made as it
21 relates to PTI. Do you remember saying that?

22 A. I did say that, sir.

23 Q. And you hoped to be advised by whom?

24 A. Gary Haynes.

25 Q. Okay. And how is Mr. Haynes supposed to know what you consider

1 a, quote, major decision?

2 A. Commonsense.

3 Q. Okay. And you'd agree he has commonsense; right?

4 A. I agree.

5 Q. Okay. Now, Mr. Landry, you also used the term that I heard for
6 the first time yesterday that Mr. Haynes was a track chief over
7 PTI. Do you remember saying that yesterday?

8 A. I did say that.

9 Q. Help. What is a track chief over PTI?

10 A. The person who supervises that program. As in the other
11 tracks, I had track chiefs who made decisions about dockets and so
12 forth. So I expected Mr. Haynes to run the program.

13 Q. So they make decisions about dockets and going to court and
14 what happened to cases in court, whether they pled guilty or went
15 to trial and whether charges are reduced, those types of things;
16 correct?

17 A. They could, yes, sir.

18 Q. That's what track chiefs did in court, right, who had court?

19 A. Yes, sir.

20 Q. But PTI, there was no docket and there was no court for PTI;
21 right?

22 A. They did go to court. They didn't go to court and participate
23 in any proceedings. But I do recall a time when they went to court
24 to try to sign people up for PTI.

25 Q. Okay. Just to get people to participate in the program?

1 A. Yes, sir. He had that discretion.

2 Q. Well, I understand that. I'm talking about there was no PTI
3 docket, is my point. No docket of cases?

4 A. No, it wasn't titled PTI docket. No, sir.

5 Q. You also testified about the DWI second program. Do you
6 remember that?

7 A. I do.

8 Q. And you said it was a short period of time and you could just
9 recall maybe one person being in the program; correct?

10 A. I can only recall one name. There may have been more than one,
11 sir.

12 Q. But you said it was for a short time and you got rid of it;
13 correct?

14 A. That's correct, sir.

15 Q. So Mr. Stutes didn't have a DWI second program; correct?

16 A. Not that I know of.

17 Q. And you implemented the program at your own discretion;
18 correct?

19 A. Yes, sir.

20 Q. And the short time you're talking about was from April of '21
21 all the way 'til December of '21. That's how long you had that DWI
22 second program. Isn't that true?

23 A. I'm not sure about the date, sir.

24 Q. But you would agree that's not a short time? You would agree
25 with that; right?

1 A. I think it's a fairly short time when you compare it to the
2 amount of time I have been in office, sir.

3 Q. Okay. So you consider seven months relative to your four years
4 a short time?

5 A. Yes, sir. I think so.

6 Q. Okay. And isn't it true Mr. Haynes terminated the program
7 after Mr. Guidry's arrest?

8 A. That's not how it happened, sir. I think I dictated that the
9 program be terminated. Mr. Haynes is the one who discussed the
10 possibility of putting second offense DWIs in the program, and it
11 didn't work out. It was too scary a thought to have someone like
12 that out on the street, so I asked that it be terminated.

13 Q. Help me wrap my mind around a program that you, an experienced
14 ADA and DA, implemented of people who will have a second DWI arrest
15 but it took you seven months to realize that that's, quote, too
16 dangerous of a program. In other words, it's not a program that
17 was in and you realize, hey, I need to shut this down. It's a
18 program you started, an experienced DA knowing how dangerous DUIs
19 are, and it took you seven months, if my math is right, to figure
20 out that's just too dangerous.

21 **THE COURT:** Hold on, Mr. Landry. An objection?

22 **MR. LOEW:** I'm not really sure what the question was
23 because there was about five minutes of argument. What was the
24 question?

25 **THE COURT:** He's asking, Mr. Landry, why did it take you

1 seven months to realize it was a dangerous program?

2 **THE WITNESS:** So let me answer it this way, Mr. Clemons.
3 I don't know when I found out during that seven months that perhaps
4 something jarred my memory, jarred me to say, "Wait a minute. This
5 is not a good thing. We need to terminate that program."

6 **BY MR. CLEMONS:**

7 Q. So is your testimony something jarred --

8 A. I don't know that it took seven months for me to find out or to
9 make that decision. And you're saying it's seven months. I don't
10 know that, sir.

11 Q. Okay. Well, you don't have any record to dispute that the
12 program lasted from April to December, do you?

13 A. I don't have any records to show that it was seven months,
14 either, Mr. Clemons.

15 Q. So now, I want to move on to your interview with the FBI. And,
16 again, I'm qualifying this is your first interview. Do you
17 remember that?

18 A. Yes, sir. If you're talking about on the date that the FBI
19 came to my office for the first time, I do remember that.

20 Q. Yes, sir. I think that was on May 9th; correct?

21 A. I don't remember the exact date, but that sounds right.

22 Q. Okay. Tell me who you spoke with and where. I know you spoke
23 to Doug Herman.

24 A. I did speak to Mr. Herman. He had an assistant with him, as I
25 recall, seated next him at my conference table in my office.

1 Q. Okay. And was this immediately when they came in with the
2 warrant? Or was this after they searched a while and they pulled
3 you to the side? Help me out. How long into the process was this
4 when they sat down with you?

5 A. Sir, I can't remember the exact time, but it wasn't too long
6 after they came into the office, I don't think.

7 Q. That's my question. I didn't know if it was at the beginning,
8 middle, or end. So you think it was towards the beginning when
9 they came in?

10 A. I think so, sir.

11 Q. Right. And the 302 says they told you, quote, the nature of
12 the interview. Do you remember them telling you what the interview
13 was about? FBI in your office. They say, "We want to talk to you,
14 Mr. Guidry."

15 And you say, "Sure." And they tell you -- well what is
16 this about? What do you recall them telling you it was about?

17 **THE COURT:** Hold on one second. Mr. Loew?

18 **MR. LOEW:** Objection. Stuff in the 302 is not the
19 defendant's statement and he's just not only inappropriately trying
20 to get that from the witness, but it's also just hearsay.

21 **MR. CLEMONS:** Judge, I'm sorry.

22 **THE COURT:** Let's talk about it at sidebar.

23 (Begin bench conference.)

24 **THE COURT:** Is there a 302 that the defendant signed?

25 **MR. WALKER:** No.

1 **THE COURT:** I mean that the witness signed?

2 **MR. WALKER:** No.

3 **THE COURT:** No one has a copy of that. So then, of
4 course, you can ask about the interview with the FBI. Do you
5 remember being interviewed and what the subject matter of that
6 interview was.

7 **MR. WALKER:** But he can't --

8 **THE COURT:** What else do you want to ask him about?

9 **MR. CLEMONS:** First of all, Judge, we all agree 302s
10 generally are not admissible, but a witness can be questioned about
11 certain contents of a 302, especially if there is something
12 represented in a 302 that impeaches something that they said in
13 their interview or in another 302.

14 **THE COURT:** You can lead him.

15 **MR. CLEMONS:** And I plan --

16 **THE COURT:** You can say did you tell him this, did you
17 tell him that, did you tell him this.

18 **MR. CLEMONS:** That's what I plan to do.

19 **THE COURT:** What else do you --

20 **MR. WALKER:** That's not what he --

21 **THE COURT:** Just leave the 302 out of it. Do you
22 remember having the conversation? He said he does. Step one.

23 **MR. CLEMONS:** Right.

24 **THE COURT:** All right. And it was about May 5th? He
25 said, yeah, sounds about right. All right. Did you tell him this?

1 Did you tell him that? Did you tell him this?

2 **MR. CLEMONS:** Right.

3 **THE COURT:** What else do you want to do besides that?

4 **MR. CLEMONS:** That's what I plan to do, Judge, but let me
5 make my point. The first question is the nature of the interview.
6 That's something I'm going to question him about.

7 **THE COURT:** Okay.

8 **MR. CLEMONS:** Right.

9 **MR. WALKER:** Your Honor, this is what he just said. He
10 said, "I'm reading a 302. This is what it says." Those are the
11 words you just said to that witness. "The 302 says this." Did you
12 say that? You can't --

13 **MR. CLEMONS:** No, I didn't say that. I know the nature
14 of the interview. He didn't say what the nature of the interview
15 was. I'm asking him what he understood the nature of the interview
16 to be.

17 **THE COURT:** You can ask if he remembers the conversation
18 that is recorded by the FBI agent but not referring specifically to
19 that document.

20 **MR. CLEMONS:** I agree.

21 (End bench conference.)

22 **THE COURT:** Mr. Clemons, please proceed.

23 **BY MR. CLEMONS:**

24 Q. So Mr. Landry, you spoke to the agent about the nature of the
25 interview, didn't you?

1 A. Yes, sir.

2 Q. And he told you the nature of the interview; correct?

3 A. I don't recall exactly what was told. It was a pretty tough
4 day when they walked in the office.

5 Q. Pretty stressful; right?

6 A. Yes, sir.

7 Q. But he did tell you generally what he was there for and going
8 to question you about, didn't he?

9 A. I don't remember if that's the way it happened, sir. They
10 asked me questions, and I answered them truthfully.

11 Q. Did you inquire as to whether you were a subject of the
12 investigation, a target?

13 A. I don't think I did.

14 Q. Now, you told them in the interview that you laid off Dusty
15 Guidry, put him on leave, and you brought him back; correct?

16 A. I don't recall if that was one of the questions they asked, but
17 if they did ask me that, that's exactly what I would have said
18 because that's the truth.

19 Q. But you didn't tell them why you brought him back, did you?

20 A. Sir, I don't remember that conversation. But I'm sure I would
21 have told them why if they asked me why.

22 Q. Do you remember discussing the vendors with them?

23 A. I don't recall that discussion, no, sir.

24 Q. Do you recall anything about the interview at all?

25 A. Yes, sir. I do recall some things about the interview.

1 Q. And this is the 302 you reviewed prior to testifying; right?

2 A. Yes, sir.

3 Q. Okay. So you don't recall discussing the vendors? You don't
4 recall that?

5 A. I don't recall, sir. I'm not saying it wasn't discussed. I
6 just don't recall that.

7 Q. Brandon Shelvin was a vendor at the time of the interview;
8 correct?

9 A. Who was?

10 Q. Brandon Shelvin, the partner with Amy Jones.

11 A. No, sir. I don't think so.

12 Q. You don't think he was a vendor?

13 A. Not at that time, I don't think so.

14 Q. Amy Jones was; right?

15 A. I don't think they had come aboard yet.

16 Q. Mr. Landry --

17 A. I'm not sure.

18 Q. If you review the 302 of your interview, would that help
19 refresh your recollection of what you said during the interview?

20 A. I don't know. It might.

21 Q. Okay. Do you remember telling them that Joe Prejean was a
22 vendor?

23 A. I think so, but I'm not sure, sir.

24 Q. Tell the jury who Joe Prejean is, then.

25 A. He's one of the -- he was one of the vendors in the pretrial

1 intervention program.

2 Q. No longer a vendor; right?

3 A. That is correct, sir.

4 Q. Do you recall telling the agents that he assisted you with
5 engagement with the African-American community?

6 A. I might have said that. I don't recall saying that, sir.

7 Q. What does that mean, whether you said it or not, helping you
8 with engagement with the African-American community?

9 A. Well, he was African-American and he knew a lot of the people
10 in the community, so I would think that he was helping me to get
11 the word out to the African-American community about our programs,
12 maybe about the politics of it all. Certainly that makes
13 commonsense, doesn't it?

14 Q. It does. It does. But help me understand. What is the,
15 quote, politics of it all, Mr. Landry? because I'm not a
16 politician. Help me understand that.

17 A. Well, I like to get all the votes I can in the community, and
18 perhaps someone of African-American descent might help me get some
19 African-Americans to vote for me. It doesn't hurt certainly to do
20 that.

21 Q. So that was one of the reasons Prejean was allowed to be a
22 vendor, right, because he supported you and helped with the
23 African-American community; right?

24 A. No, sir. He was a favorite of Mr. Stutes and did a great job
25 for Mr. Stutes. My understanding is he and Mr. Stutes had

1 breakfast on a regular basis, so I was pretty well convinced that
2 he was going to be a good vendor for us.

3 Q. And you told the FBI that you know all the vendors personally,
4 including Franques. Do you remember telling them that?

5 A. I don't recall telling them that, but I could well have told
6 them that.

7 Q. Because it's true; right?

8 A. Yes.

9 Q. And you were questioned about whether any vendors, quote,
10 reimbursed you for a portion of their fee, and you said that you
11 didn't know anything about that. Remember that?

12 A. I do.

13 Q. Because at the time you didn't know anything about a profit
14 sharing; right? Is that why?

15 A. I didn't share with anybody's profits, sir. I think what
16 you're talking about is Mr. Burton, and that was the office
17 received money from the program.

18 Q. You were asked if your office got reimbursed by any of the
19 vendors, and you told them no; right?

20 A. That's right.

21 Q. But Mr. Burton did reimburse your office a percentage of the
22 fees collected.

23 A. That's a different -- you said office this time, sir. That is
24 correct. The office, not me. You said me.

25 Q. So I'm talking about your office.

1 A. Okay.

2 Q. So at the time you had forgotten about Burton reimbursing the
3 office a portion of his fees; right?

4 A. That's correct.

5 Q. Now, isn't it true you told them how cases came into PTI;
6 correct?

7 A. Say that again, please.

8 Q. You told the agent how cases came into PTI? I mean the process
9 for getting them into PTI.

10 A. I don't recollect that.

11 Q. But that wouldn't be uncommon just for you to tell them the
12 process of cases coming either from attorneys or from judges? They
13 all refer cases; right?

14 A. If they asked the question, yes, sir, I would have explained it
15 to them.

16 Q. And you also told them that employees getting money from
17 vendors would not be tolerated under any circumstances; correct?

18 A. I don't know if that question was asked, sir, but if it would,
19 I definitely would have said that.

20 Q. And isn't it true that your office can take cases from city
21 court and move them to district court at any time; correct?

22 A. We can take cases from city court, yes, sir.

23 Q. Okay.

24 A. If they qualified.

25 Q. Now, you were asked on direct about the first interview. You

1 didn't have an attorney, you answered all the questions, but that
2 at some point you hired Mr. Block; correct?

3 A. That's correct.

4 Q. At some point you realized it may be in your best interest to
5 get representation; correct?

6 A. Actually, that is correct, but actually it would have been in
7 the best interest of my office that we have some representation.

8 Q. Oh, So Mr. Block represents the entire office?

9 A. No, sir. He represents me.

10 Q. Okay. But it would be best for the office if you had a
11 criminal defense attorney to represent you; correct?

12 A. That was my thinking, Mr. Clemons.

13 Q. And it's still your thinking?

14 A. Yes, sir.

15 Q. And --

16 A. I have not been in the federal system. I think I only had one
17 case in the federal system. I knew nothing about it.

18 Q. Okay. And so therefore, you wanted to hire an attorney?

19 A. Therefore, I wanted some representation.

20 Q. Nothing wrong with that.

21 A. I didn't think so, either.

22 Q. Now, let's talk about it, though. Because you received a
23 letter Kastigar letter, didn't you?

24 A. I received what, sir?

25 Q. A letter that's commonly referred to as a Kastigar letter that

1 you signed. You talked about it yesterday. Do you remember that?

2 A. I remember the letter, yes, sir.

3 Q. Okay.

4 A. I don't remember specifically what's in the letter, but I
5 remember a letter.

6 Q. I think you told the jury you didn't even remember if you read
7 it or not; right?

8 A. Say that again.

9 Q. I think you told the jury you're not even sure if you read it?

10 A. Well, I'm sure I read it at the time, sir. I just don't
11 recollect now.

12 Q. Okay. I'm going to show you what we've identified as, or
13 marked, I'm sorry, Defense Exhibit 187.

14 **MR. CLEMONS:** Show it to the witness only to see if he
15 recognizes it. Mr. Douget, can you go to the next page with his
16 signature?

17 **BY MR. CLEMONS:**

18 Q. Do you recognize your signature?

19 A. That is my signature, sir.

20 Q. Who else is signed there?

21 A. An Assistant United States Attorney, Mr. McCoy, and Gerald
22 Block.

23 Q. And what was your understanding of the purpose of this
24 document?

25 A. It kind of recited that my cooperation with the Government, I

1 guess. If I could see the rest of the letter, I can tell you, sir.

2 Q. Oh, you can take all the time you need to read it.

3 A. Can we go to the first page?

4 Q. Yes, sir. I can give you a hard copy, Mr. Landry. I want to
5 make sure it's clean.

6 **MR. CLEMONS:** Can I approach the witness, Judge?

7 **THE COURT:** Yes.

8 **MR. CLEMONS:** This is just a copy of the document.

9 **THE COURT:** This is defense exhibit what now? Defense
10 Exhibit 7?

11 **MR. JOHNSON:** 187.

12 **THE COURT:** 187, okay.

13 **MR. CLEMONS:** (Tendered.) Your Honor, at this time I
14 would like to go ahead and offer it -- I'm sorry. Mr. Landry, you
15 can go ahead. I'd like to offer the exhibit, while Mr. Landry is
16 reading it.

17 **THE COURT:** Any objection?

18 **MR. LOEW:** Did he say he offered it to him to read? Or
19 he wants to admit it? I couldn't hear.

20 **THE COURT:** He's offering now to admit it, I believe.

21 **MR. CLEMONS:** Yes, sir.

22 **MR. LOEW:** We don't have any objection to that.

23 **THE COURT:** All right. I'll admit it.

24 **MR. CLEMONS:** Mr. Douget, can you go ahead and publish it
25 while Mr. Landry is reading it? You might have to blow it up a

1 section at a time, maybe.

2 **THE WITNESS:** Okay, Mr. Clemons.

3 **MR. CLEMONS:** Thank you. May I approach, Your Honor?

4 **THE COURT:** Yes, you may approach. All right. Mr.

5 Clemons, do you have any questions about the document?

6 **MR. CLEMONS:** Yes, sir.

7 **BY MR. CLEMONS:**

8 Q. Mr. Landry, now that you have read it, just tell the jury, in
9 your own terms, what that document provided to you.

10 A. It's a document addressed to my attorney; expresses the
11 agreement that I have with the United States government that I will
12 personally provide complete and truthful information regarding my
13 involvement in events under investigation by the United States.
14 All information to be provided to the Government. It instructs me
15 that the proffer will be given to the attorney for the United
16 States and to pertinent law enforcement agents who will be present
17 during the proffer.

18 Q. And so that's giving you protection against what you said so
19 that in case you are prosecuted, what you said cannot be used
20 against you; correct?

21 A. I believe the next paragraph might talk about that, sir. It
22 speaks for itself.

23 Q. It speaks for itself, but they're not attorneys. I want to
24 know what you understood it to give you, anyway.

25 A. Okay.

1 Q. That's what's important.

2 A. All right.

3 Q. Isn't it your understanding that this letter gave you use
4 immunity? Are you familiar with that term?

5 A. I'm familiar with the term.

6 Q. And would you agree that this letter gave you use immunity so
7 that what you said in this interview would not be used against you
8 if the Government decided to pursue charges against you?

9 A. It says it will not be used directly against me in any criminal
10 case except in use as an impeachment or rebuttal evidence. And it
11 goes on to talk about those kinds of things.

12 Q. So it provided you with protection; correct?

13 A. Yes, sir.

14 Q. Now, you signed that with your attorney Gerald Block and then
15 you signed that prior to your interview on -- your meeting or
16 interview, whatever you call it, on May 21st; correct?

17 A. I don't see that part of the page, but I think that's the date
18 I remember from the page.

19 Q. Well, I don't know what day the date is, but I've got a record
20 to show what time you met with them, so...

21 A. If that's what it says, sir, that's correct.

22 Q. Yeah.

23 A. Oh, I see it now. May 21, '22.

24 Q. And isn't it true that at this interview the first thing you
25 told them is you wanted to, quote, clarify some things from your

1 first interview? You wanted to straighten some things up; right?

2 A. I don't recall exactly what was said as we started out the
3 interview, but I think I did correct something I had previously
4 said.

5 Q. Okay. And this is a 302 that you reviewed prior to testifying;
6 correct?

7 A. Yes, sir.

8 Q. And isn't it true that one of the things you wanted to, quote,
9 clarify was whether you had ever heard about vendors taking money
10 directly or trying to take money directly from defendants? That's
11 one thing you wanted to, quote, clarify; correct?

12 A. I think that's correct, sir.

13 Q. Because in the first interview you told them you had no
14 knowledge off any vendors taking money from defendants or trying to
15 take money from defendants; correct?

16 A. I don't remember that, sir.

17 Q. You don't have any memory of telling them that, do you?

18 A. Do I what?

19 Q. You don't have any recollection of telling Mr. Herman that, do
20 you?

21 A. No, sir.

22 Q. Okay. But in the second interview, you told them about Joe
23 Prejean and Joe Prejean trying to shake money down from a defendant
24 in the program? You told him about that; correct?

25 A. I think that was the discussion.

1 Q. That was a thing you wanted to straighten out; correct?

2 A. Yes, sir.

3 Q. And you wanted to straighten it out less than two weeks later;
4 correct?

5 A. I wanted to be truthful about everything I said then and at the
6 time of the second interview.

7 Q. So what happened between the first interview and the second
8 interview to make you want to remember this or straighten it out?

9 A. I'm not sure what happened, but I remembered that there was a
10 case where Mr. Prejean -- perhaps it's alleged that he might have
11 taken some money from a participant.

12 Q. Okay. Who was this participant he might have alleged taking
13 money from?

14 A. I don't remember the name, sir.

15 Q. Was it Bradley Zaunbrecher?

16 A. Who is it?

17 Q. Bradley Zaunbrecher, wasn't that the person?

18 A. Could have been.

19 Q. Could have been. Wasn't that likely him, sir?

20 A. I think it was, but I'm not sure, sir.

21 Q. When did you read the 302?

22 A. Say it again.

23 Q. When did you read the 302 prior to testifying?

24 A. At the time that I signed it.

25 Q. No. You said you read your 302s prior to testifying. When was

1 that?

2 A. I think I was shown the 302. I didn't read it.

3 Q. When were you shown it?

4 A. One of the meetings.

5 Q. The one you had Sunday?

6 A. Say it again.

7 Q. The one you had Sunday?

8 A. I don't think so.

9 Q. One of the previous meetings?

10 A. I think so.

11 Q. But you could have looked at them at any time you wanted to
12 prior to hitting the stand; correct?

13 A. I didn't look at it, no, sir.

14 Q. You could have?

15 A. I could have.

16 Q. You also talked to them about the bracelets that Shelvin and
17 Jones used; correct?

18 A. Will you repeat that for me?

19 Q. Do you remember -- okay. I'll break it down. Isn't it true
20 Shelvin and Jones were business partners. Amy Jones, remember her?

21 A. Yes, sir. I know her.

22 Q. Weren't they business partners?

23 A. Yes, sir. That's my understanding, sir.

24 Q. They were vendors; correct?

25 A. They were vendors at some point in time, yes, sir.

1 Q. And the product and service they provided were bracelets;
2 correct?

3 A. They provided bracelets, yes, sir.

4 Q. Tell the jury what the purpose of the bracelets were.

5 A. You said what the problems with the bracelets were?

6 Q. The purpose of the bracelets.

7 A. The purpose of the bracelets? The purpose of the bracelets is
8 to track defendants who might be in the program with some special
9 requirement; that they avoid certain places, certain places who
10 might serve alcohol, certain places where they should not go with
11 this bracelet. It's a tracking system. They're able to tell where
12 these people attended.

13 Q. And you told the agents that they were wonderful products;
14 correct?

15 A. I thought they were good products.

16 Q. Okay. So even though you told them in the second interview
17 about Brandon Shelvin, it's your testimony you still don't recall
18 Shelvin being a vendor even though you told Doug Herman about
19 Brandon Shelvin and his product?

20 **MR. LOEW:** Objection. Just the form of the question is
21 pretty confusing.

22 **THE COURT:** Can you make it simpler for the witness?

23 **MR. CLEMONS:** Thank you.

24 **BY MR. CLEMONS:**

25 Q. Do you recall saying about 20 minutes ago that you didn't think

1 Brandon Shelvin was a vendor during this timeframe? Do you
2 remember that?

3 A. Yes. I think I told you I wasn't sure about the timeframe.

4 Q. But if your 302 tells the FBI agents that Brandon Shelvin and
5 Amy Jones were vendors and their product was this bracelet, that
6 would be inconsistent with what you just said; right?

7 A. You're talking about the 302 I just read? It doesn't tell me
8 anything like that.

9 Q. I'm talking about the interview you gave with Doug Herman on
10 May 21st. That's what I'm talking about.

11 A. Okay.

12 Q. You told him that Brandon Shelvin product was the bracelets and
13 it was a good product.

14 A. I don't recall that at all, sir.

15 Q. Okay. Now, lastly, let's move on to your grand jury testimony.
16 Do you remember that?

17 A. I do.

18 Q. How did you get summoned to appear before the grand jury? How
19 did that work out? Did your attorney say, "Hey, man, you got a
20 subpoena"? Did the FBI and the U.S. Attorney Office want to meet
21 with you? How did that go down?

22 A. I'm not sure. I think I might having received a subpoena, but
23 I'm not sure.

24 Q. Okay. And you had to testify in front of the grand jury. You
25 took an oath to tell the truth?

1 A. I didn't hear the last part of your sentence.

2 Q. You took an oath to tell the truth?

3 A. Yes, sir, of course.

4 Q. And that was here in the same building; correct?

5 A. Yes, sir.

6 Q. Now, you told them about the, quote, pilot program for second
7 offense; correct?

8 A. Yes.

9 Q. You told them that you did that for, quote, a little while and
10 it didn't work out; correct?

11 A. I think so.

12 Q. They also asked you under oath -- under oath, Mr. Landry --
13 "Would you ever have accepted a third offense DUI into the
14 program?" Do you remember that question?

15 A. I don't.

16 Q. What was your answer? Your answer was, "No, sir." Does that
17 sound familiar?

18 A. I think it probably would have been because I wasn't aware of
19 one.

20 Q. So your answer was, "No, sir." You wouldn't let them in?

21 A. Correct.

22 Q. They also asked you, I think this was Mr. Loew questioning you:
23 "How about domestic violence cases? Right after DWI third."

24 "No, sir. We did not want domestic violence cases in the
25 PTI." Remember that?

1 A. I do.

2 Q. But that's not true, is it? You did allow --

3 A. I did not allow, sir. Mr. Haynes did.

4 Q. Okay. So which one did Mr. Haynes allow domestic violence case
5 -- let me finish my question, sir.

6 A. Sure.

7 Q. What domestic violence cases Mr. Haynes allowed in the program?

8 A. I'm not sure, sir. I don't know a name. I don't have a case
9 that I can cite to you.

10 Q. So how can you say Mr. Haynes allowed them in the program if
11 you can't even think of any cases?

12 A. Because he was in charge of the program and I know I didn't let
13 anybody in.

14 Q. So how do you know there were domestic violence cases in the
15 program?

16 A. Say it again.

17 Q. How do you know there was domestic violence cases in the
18 program?

19 A. How did I know there weren't any?

20 Q. That there were. That there were domestic violence cases in
21 the program. How do you know that?

22 A. You just asked me that kind of a question, sir, to indicate
23 that there was.

24 Q. Oh, so my question repeating what you asked in the grand jury
25 led you to believe that evidently someone allowed a domestic

1 violence case in the program; right?

2 A. Correct.

3 Q. Because you told the grand jury under oath under no
4 circumstances would you allow that; correct?

5 A. I did not.

6 Q. You were also asked under oath about did you hear, quote,
7 rumors about Bradley Zaunbrecher? Do you remember being asked
8 that?

9 A. I think I was asked that. I'm not sure.

10 Q. Okay. You were also asked about Joe Prejean and whether there
11 were allegations made against him. Do you remember that?

12 A. Yes, sir. I think that's correct.

13 Q. And you told the grand jury, which is true, that Gary Haynes
14 came and met with you and told you that he had heard directly from
15 Brett Stefanski that Joe Prejean tried to shake down Zaunbrecher.
16 Do you remember that?

17 A. I don't recall that, sir.

18 Q. You don't recall Gary telling you that?

19 A. I recall Gary giving me a call one day. I don't recall him
20 saying where he got the information. He said that he got
21 information that Mr. Zaunbrecher was being asked to pay some money
22 to stay in the program. And I told Mr. Haynes, I said, "You need
23 to investigate that. I don't like second-hand information. Find
24 out and let me know."

25 Q. Okay. So you know Brett Stefanski; right?

1 A. I do.

2 Q. Tell the jury who Brett Stefanski is.

3 A. He's an attorney in Acadia Parish.

4 Q. He's got a brother; right?

5 A. He has brothers, I think.

6 Q. A brother who is an attorney?

7 A. Yes, sir.

8 Q. What's his brother's name?

9 A. I believe it's Scott.

10 Q. Scott Stefanski, okay. So you know Brett Stefanski. You know
11 he's an attorney in the Acadiana area. And it's your testimony you
12 don't recall Gary telling you, "I talked to Scott Stefanski and
13 Scott told me that his client said Joe Prejean tried to shake him
14 down for several thousand dollars"? You don't remember Stefanski
15 name coming up?

16 A. I don't remember the Stefanski name coming up. I remember the
17 nature of that conversation. And as I told you just a little
18 earlier, I told Gary to get to the bottom of this, investigate it.
19 And I never heard back.

20 Q. And you told Gary to investigate it and you never heard back.
21 And so isn't it true that after two weeks, you didn't hear nothing
22 from Gary about this serious allegation in the middle of your
23 office? You went to Gary's office and said, "Gary, you're
24 investigating this. I gave you two weeks. What's the answer?"
25 You didn't do that, did you?

1 A. I don't recall doing that, sir.

2 Q. Even though somebody was telling you directly about illegality
3 in your office with a vendor that you were doing business with;
4 right?

5 A. I would have expected Gary to take action if it was necessary.
6 I would have expected him to come and tell me if he found out that
7 it was, in fact, true.

8 Q. You didn't report it to the FBI: FBI, I got a complaint from
9 my attorney that one of my vendors is committing extortion? You
10 didn't report that to the FBI, did you?

11 A. It was an allegation made, sir, at the time. I asked that it
12 be investigated. Nothing came out of it, so there was nothing for
13 me to report.

14 Q. When did you pick up the phone and tell Joe Prejean, "Joe, get
15 to my office right now. I've got a serious allegation that was
16 made to me. I need you to look me in the eye and tell me it's not
17 true"? When did you do that?

18 A. I did not do that. I expected Gary Haynes to do that, sir. He
19 was running that program for me at that time.

20 **MR. CLEMONS:** Just one minute, Judge. I promise you, I'm
21 at the end. I might be finished, Judge, if I get permission. I'm
22 trying to wrap it up and I got excited. I got to get to this mic.

23 **BY MR. CLEMONS:**

24 Q. Let's talk third-offense DWI because you're adamant you never
25 let any in it. You know Mr. Alfred Boustany; correct?

1 A. Do I know who?

2 Q. Alfred Boustany. Well, you know both of them; correct?

3 A. I know the Boustanys, yes, sir.

4 Q. And I think the older one is the second one, and the younger is
5 the third. Do I have that right?

6 A. You can do it that way. You can say younger and older, too.

7 That might help.

8 Q. That might keep it simple, huh?

9 A. It would.

10 Q. Yeah, okay. I'm all for simplicity.

11 We're going to say the younger one. The older one, too,
12 but the younger one had a lot of cases in PTI -- a lot of clients
13 with cases in PTI; correct?

14 A. I don't know about a lot of cases in PTI. I know he had cases
15 in PTI.

16 Q. Okay. Well, cases. Steven Lavergne, that was one of his cases
17 in PTI; correct?

18 A. I have no idea, sir.

19 Q. Do you recognize that name, Steven Lavergne?

20 A. I don't recognize it.

21 Q. What about Craig Stansbury?

22 A. No, sir.

23 Q. You don't recognize the name?

24 A. I recognize the name. I know Craig Stansbury.

25 Q. That's my question. Who is Craig Stansbury?

1 A. He runs the -- or he was running -- I don't know if he still
2 does it -- but the 911 exchange.

3 Q. And he's related to Nathan Stansbury, the former DA; correct?

4 A. That is his -- yes, sir. Nathan was his father.

5 Q. Father, okay. So that's Nathan's son, okay.

6 Now, isn't it true that regarding Steven Lavergne, Craig
7 Stansbury contacted your office to get assistance for him because
8 he had gotten a DWI third offense?

9 A. No, sir. I don't recall that.

10 **MR. CLEMONS:** Thank you, sir.

11 I tender the witness, Your Honor.

12 **THE COURT:** Thank you, Mr. Clemons. About how long do we
13 have on redirect?

14 **MR. LOEW:** Thirty minutes.

15 **THE COURT:** Does anybody need a quick break? Let's take
16 how about a ten-minute break and then we'll finish this witness
17 before lunch. How about that?

18 All rise for the jury.

19 (Jury not present.)

20 **THE COURT:** Let's come back at 11:42.

21 (Off the record at 11:31 a.m.; resumed at 11:41 a.m.)

22 **THE COURT:** All right. Please be seated. Mr. Johnson,
23 you wanted to address something, I think?

24 **MR. JOHNSON:** Yes, Your Honor. I just wanted to reurge.

25 Earlier, whenever I was asked to be heard, you said we were going

1 to follow the rules of evidence. I understand that. I understand
2 the instruction. Under Code of Evidence Article 613 and Code of
3 Evidence Article specifically 807, the residual rule, I believe the
4 law is, is that, you know, when we have evidence that is
5 trustworthy and cannot be gotten from any other source and that the
6 state or the Government has been provided an opportunity to meet
7 that evidence, that we should be allowed to get it in. It's the
8 residual rule. And I think it applies in situations just like
9 this, namely where the witness is -- memory is refreshed but even
10 afterwards still is kind of shaky on what the substance of the call
11 is. And the reliability of the call is the call. So we have, you
12 know, what the, you know, evidence actually is. It is trustworthy.

13 And I didn't realize this at the time because I thought
14 we were just using it for impeachment evidence, but that specific
15 audio that we were talking about earlier, Your Honor, that's on our
16 exhibit list. That was provided in advance of trial to the
17 Government. So I just wanted to put that argument on the record
18 because when you said, "Do you have any other code of evidence
19 article --"

20 **THE COURT:** Right. Okay. Thank you, Mr. Johnson. It is
21 hearsay. It's not admissible unless specifically authorized. I
22 don't see where it's specifically authorized. And frankly, the
23 witness testified about the subject matter of that conversation
24 after he refreshed his recollection listening to it. So...

25 **MR. JOHNSON:** I understand. I just wanted to put 807

1 specifically, that residual --

2 **THE COURT:** Okay.

3 **MR. JOHNSON:** -- because the 807 is an exception to the
4 hearsay rule and it's a catch all. I just wanted to put that
5 argument on the record. I'm not saying you don't understand that.

6 **THE COURT:** I know what 807 is.

7 **MR. JOHNSON:** I know. I just wanted to put it on the
8 record. Thank you.

9 **THE COURT:** All right.

10 **MR. CLEMONS:** And Judge, may I put one thing while the
11 jury is not in here? While speaking to me, Judge, you made the
12 comment that the man has not been impeached, the witness has not
13 been impeached. I want the record to be clear. I think that is
14 fundamentally unfair for the Court to make a decision like that in
15 front of the jury.

16 **THE COURT:** All right. Mr. Clemons, while we're on this
17 topic, you will not make statements to the jury in the form of a
18 question. Do you understand? If I see that happen again, I will
19 not only enforce that rule in front of the jury, but I will do it
20 in a way that is very clear that they are not to pay attention to
21 that statement that you made. I have seen you do it twice, and I
22 haven't said anything; but if I see it again, I will say something
23 to you.

24 **MR. CLEMONS:** I understand that.

25 **THE COURT:** All right.

1 **MR. CLEMONS:** But that still doesn't take away my point
2 that I want the record to be clear.

3 **THE COURT:** So what are you saying again?

4 **MR. CLEMONS:** That you said in front of the jury, you
5 told me that the witness had not been impeached.

6 **THE COURT:** He hadn't been.

7 **MR. CLEMONS:** That's what the problem is for the jury to
8 determine.

9 **THE COURT:** No. You asked that I admit a prior statement
10 because you said he had been impeached. I said no he had not been
11 impeached, so I overruled your request to admit that. That's what
12 happened.

13 **MR. CLEMONS:** Right. But my point is that should not be
14 mentioned in front of the jury, that in your opinion the witness
15 had not been impeached. So that's all. I just want the record to
16 be clear.

17 **THE COURT:** That wasn't my opinion.

18 **MR. CLEMONS:** I'm sorry?

19 **THE COURT:** It wasn't my opinion.

20 **MR. CLEMONS:** Okay. I just want the record to be clear,
21 Judge.

22 **THE COURT:** It wasn't my opinion. You offered something
23 that would only be admissible if he had been impeached. In
24 overruling your request for admission, I said, no, he had not been
25 impeached. That's proper and it's a response to what you're asking

1 the Court to rule upon.

2 Anything else?

3 **MR. WALKER:** Not from the Government.

4 **THE COURT:** Any complaints from Mr. Walker, Mr. Loew?

5 Any complaints?

6 **MR. WALKER:** We're happy and we're fine, Your Honor.

7 **THE COURT:** All right. Call the jury back in.

8 (Jury present.)

9 **THE COURT:** Please be seated. Mr. Loew, please proceed.

10 **REDIRECT EXAMINATION BY MR. LOEW:**

11 Q. Mr. Landry, I'm going to go through some questions based on the
12 cross-examination, and I'm just going to go in the order that the
13 defense counsel went so that it will hopefully be easy.

14 Do you remember the questioning about whether you had
15 read a 302 and signed a 302?

16 A. I do remember the question.

17 Q. I'm going to show you Defendant's Exhibit 187. It's been
18 admitted. Do you recognize this?

19 A. I see it.

20 Q. And this is page 2 of that?

21 A. Yes.

22 Q. Can you see your signature on that?

23 A. I do.

24 Q. Is this the document that you thought he was referring to as a
25 302?

1 A. Yes, sir.

2 Q. And this is that letter that he talked about?

3 A. Yes, sir.

4 Q. Remember the big meeting that he talked about at the beginning
5 of your -- once you became the DA and you had everyone in to talk
6 about pretrial intervention?

7 A. I remember that.

8 Q. And at that meeting, was Gary Haynes there?

9 A. I believe he was.

10 Q. And at that meeting, did Dusty Guidry or Gary Haynes say that
11 they were going to take money from any of the vendors?

12 A. No, sir.

13 Q. Remember the talk about something he called DA probation?

14 A. Yes, sir.

15 Q. And how you didn't make any money from that but you make money
16 from pretrial intervention?

17 A. I remember the question.

18 Q. You mentioned, I think, scholarships. Could you explain what
19 scholarships are?

20 A. Yeah. For those people who are qualified, meaning if they
21 bring sufficient proof that they cannot afford to pay the fees we
22 charge for our program, then we award a scholarship. There's a
23 separate form that we sign off on -- I sign off on and award the
24 scholarship, meaning they don't have to pay -- for instance, in a
25 DUI case they don't have to pay a thousand dollars.

1 Q. There was lots of talk about Bradley Zaunbrecher and his
2 multiple DUIs. Do you remember that?

3 A. I do.

4 Q. And this was the one where we took a break and you listened to
5 the phone call?

6 A. I did.

7 Q. In the phone call when you found out that he got a DUI while he
8 was in the program, you use the term "bombed out."

9 A. Correct.

10 Q. What does that mean?

11 A. It means he did something that would remove him from the
12 program.

13 Q. He questioned you about whether you remember talking about
14 Barry Petry back in May of 2022 when you talked with the FBI. Do
15 you remember that?

16 A. Yes, sir.

17 Q. And you couldn't remember whether you had kicked him out of the
18 program once you found out or --

19 **MR. CLEMONS:** Objection, Judge. He's leading the
20 witness. He's telling him what he couldn't remember.

21 **THE COURT:** Can you rephrase, please? Sustained.

22 **BY MR. LOEW:**

23 Q. Here's the question: Did you know that he had died long before
24 that?

25 A. I think I did find out he had died, yes, sir.

1 Q. There was lots of talk about the authority of a district
2 attorney, authority to prosecute cases, admit people into PTI.
3 What is an assistant district attorney?

4 A. Assistant district attorney has the same authority.

5 Q. So I'm not asking about authority, but what's their role in
6 your office?

7 A. Well, I'm the guy up at the top. I supervise the entire
8 office. I handle all the administrative duties. I supervise the
9 assistant DAs. If anyone comes to me with a question, I'm more
10 than happy to help and cooperate with whatever the issue might be
11 that they bring up. I help in the dockets. We take a look at the
12 dockets, make sure our dockets are moving, try to make sure we get
13 cases on the docket, supervise the felony assistants, misdemeanor
14 assistants, juvenile assistants. From time to time, I might step
15 into court, but I don't go into court very much.

16 Q. You mean you weren't prosecuting every single case that your
17 office did?

18 A. No, sir. I was not.

19 Q. Is that why you have ADAs?

20 A. Yes, sir.

21 Q. And I know we use acronyms a lot. But what does ADA stand for?

22 A. Assistant district attorney. And I have a very good staff.

23 Q. Throughout the entire period that Mr. Haynes worked for you, so
24 from January of '21 until the search warrant in May of '22, did you
25 trust him?

1 A. I did.

2 Q. Mr. Clemons went through a whole bunch of forms on the fees
3 that are charged for pretrial intervention.

4 A. Yes, sir.

5 Q. Was there a spot on any of those forms for how much the vendors
6 had to pay your assistant district attorneys to get the business?

7 A. No, sir.

8 Q. He talked about the fees that Mr. Burton shared in the type of
9 revenue sharing. Did those go into your pocket?

10 A. No, sir.

11 **MR. LOEW:** That was a lot shorter than I thought it would
12 be, Your Honor. No further questions.

13 **THE COURT:** All right. Let's take a lunch break. We'll
14 come back at 1:00, if that's enough time for everybody, and resume
15 the Government's case. Court will be in recess until 1:00.

16 (Off the record at 11:52 a.m.; resumed at 11:53 a.m.)

17 (Jury not present.)

18 **THE COURT:** Mr. Landry, you may step down. May Mr.
19 Landry be released from his subpoena.

20 **MR. LOEW:** That's what I was going to ask, Your Honor.

21 **MR. CLEMONS:** No, Your Honor. We don't want him
22 released. He's under subpoena by us, too. He can go on about his
23 life, but we certainly don't want him released because there may be
24 a need to re-call him.

25 **THE COURT:** You're not released from your subpoena;

1 therefore, don't discuss this case with anybody until you are
2 released. The defense may or may not call you back.

3 **THE WITNESS:** Thank you.

4 **THE COURT:** Please be seated. Is there anything else?

5 **MR. CLEMONS:** Yes, sir. Yeah, Judge. I was waiting for
6 a chance. I think the record is abundantly clear the Government
7 has opened the door clearly for us to play this call. I didn't
8 question the man anything about this so-called bombed out. I only
9 questioned him about a few things that's in the call. But I think
10 now, for them to bring up the bombed out to try to minimize his --
11 what I think has been clearly impeached on the call, he questioned
12 him about a call that the jury has never heard. I think that's
13 fundamentally unfair.

14 **THE COURT:** We're still talking about the call, Mr.
15 Clemons?

16 **MR. CLEMONS:** The call with --

17 **THE COURT:** How many times do I have to rule on it? You
18 have not given me a basis to admit that for the jury to hear.

19 **MR. CLEMONS:** Okay. Well, I was just basing it upon what
20 he just questioned him about bombing out, and bombing out being on
21 the call, Judge.

22 **THE COURT:** There is -- look, there is all kind of prior
23 statements that may be recorded on cell phones, on e-mails, on
24 anything like that. We have all kind of technology nowadays, but
25 it's all hearsay unless there is a way to admit it into evidence at

1 trial. Just because you like the call, you think it's good for
2 your case, is not good enough to admit it into evidence. The
3 witness testified about the call after refreshing his recollection.
4 That's the proper way to get that in front of the jury. That
5 happened.

6 **MR. CLEMONS:** Okay. I just wanted to bring it to the
7 Court's attention.

8 **THE COURT:** We're not going to bring stuff up. If I have
9 ruled on it, then that's that and we move on.

10 Mr. Walker, you said you wanted something else?

11 **MR. WALKER:** I was just going to let you know that we did
12 get that consensual recording you wanted to listen to. It's in
13 your office.

14 **THE COURT:** I listened to it. I agree actually with the
15 Government's position on that. I think that the portion regarding
16 the \$10,000 fits into the conversation, and I don't know how to
17 redact it. I think we'd lose context if we did. Therefore, I will
18 let the Government play it as is designated.

19 We will be in recess until 1:00.

20 (Off the record at 11:55 a.m.; resumed at 1:00 p.m.)

21 **THE COURT:** Please be seated. Mr. Clemons, I wanted to
22 address something you brought up before the break. And I'm going
23 to offer an instruction to the jury based on what you said. And I
24 think the issue is as follows: Of course, we all know it's within
25 the province of the jury to judge the credibility of the witnesses

1 that are testifying under oath, and that includes by determining if
2 an in-court statement is consistent or inconsistent with a prior
3 statement on the particular subject matter. That being said, what
4 we were discussing was when a party seeks to introduce into
5 evidence an out-of-court statement, under 801(d)(1), which I assume
6 was what Mr. Clemons was offering the recording under, the Court
7 must make an evidentiary determination as to whether there is an
8 inconsistency with the out-of-court statement and the in-court
9 statement which would allow for that to be admitted, which is what
10 I made the evidentiary ruling on because you had not shown -- you
11 had not laid the foundation that there was an inconsistency. That
12 being said, I will give a brief jury instruction to the jury that
13 it's within their province to judge the credibility of all
14 witnesses in light of any consistent or inconsistent statements if
15 you'd like me to.

16 **MR. CLEMONS:** Is there a question, Judge?

17 **THE COURT:** Yeah. I'm asking if you want me to make that
18 instruction to the jury to clarify that point.

19 **MR. CLEMONS:** As long as it's just the last part. I
20 mean, can you read to me exactly what you intend to instruct them?
21 because I just want to be clear.

22 **THE COURT:** I would say, "It's fully within the province
23 of the jury to judge the credibility of any witnesses, including by
24 determining if any in-court statement is consistent with any prior
25 statement on the same subject matter."

1 **MR. CLEMONS:** I'll prefer that the word impeachment be
2 used because that's something that was used in court because that's
3 their determination, as well. But I mean, if the Court doesn't
4 want to include impeachment in there, I would be willing to settle
5 for that. Because I think impeachment is very important because
6 that's what was said in front of the jury.

7 **THE COURT:** Right. That was said in relation to a ruling
8 on your evidentiary motion. That's what I ruled on; that you
9 hadn't set up an impeachment.

10 **MR. CLEMONS:** Oh, I understand that. But I just think to
11 incorporate that one word including whether somebody has been
12 impeached is up to their discretion.

13 **THE COURT:** I don't think the jury probably understands
14 what impeachment means at this point, Mr. Clemons, to be honest
15 with you. Until I give the final instructions, I don't think they
16 understand what that means. I can also add that when you heard
17 discussion about impeachment, that was solely the Court's
18 determination whether to admit a particular piece of evidence. I
19 can say that.

20 **MR. CLEMONS:** That it was limited to making that
21 decision.

22 **THE COURT:** Yeah. I can say that.

23 **MR. CLEMONS:** That's what I'm looking for.

24 **THE COURT:** Yeah. I can say that.

25 **MR. CLEMONS:** I just want to make sure they understand

1 that your decision was limited to that.

2 **THE COURT:** I'll be happy to do that.

3 **MR. CLEMONS:** Thank you, Judge.

4 **THE COURT:** Any objection to that?

5 **MR. WALKER:** No, Your Honor.

6 **THE COURT:** All right. Anything else we need to talk
7 about before we bring the jury back in?

8 **MR. WALKER:** Nothing that we're aware of.

9 (Jury present.)

10 **THE COURT:** Please be seated. Welcome back from lunch,
11 ladies and gentlemen. Thank you for being here on time. We are
12 about to start with the next witness in the Government's case in
13 chief. Before we do that, I want to remind you of an instruction I
14 believe I gave at the beginning of trial and will again give at the
15 end of trial. But I want to tell you that it's fully within the
16 province of the jury, within your role as a jury, to judge the
17 credibility of any witness, including by determining if any
18 in-court statement is consistent or inconsistent with any prior
19 out-of-court statement on the same subject matter.

20 When I discussed earlier the word impeachment, before the
21 break, it was solely within the context of me determining whether
22 to admit or not admit a certain piece of evidence. Okay?

23 All right. Government may call its next witness.

24 **MR. NICKEL:** Judge, Government calls FBI Special Agent
25 Douglas Herman.

1 **THE DEPUTY CLERK:** Raise your right hand please, sir. Do
2 you solemnly swear or affirm that the testimony you give in this
3 matter will be the truth, the whole truth, and nothing but the
4 truth, so help you God?

5 **THE WITNESS:** I do.

6 **THE DEPUTY CLERK:** Thank you. Be seated.

7 **DOUGLAS HERMAN,**
8 after having first been duly sworn, did testify as follows:

9 **DIRECT EXAMINATION BY MR. NICKEL:**

10 Q. Good afternoon, Agent Herman. Would you mind introducing
11 yourself to the ladies and gentlemen of the jury.

12 A. Sure. My name is Doug Herman. I am -- I was a supervisory
13 senior resident agent for the Federal Bureau of Investigation, FBI.

14 Q. Can you move that microphone a little bit closer, or you to it?

15 You mentioned you work for the FBI, correct, Agent
16 Herman?

17 A. That is correct.

18 Q. How long have you worked for the FBI?

19 A. A little over 16 years.

20 Q. What's your current role at the FBI?

21 **THE DEPUTY CLERK:** The green light.

22 **THE WITNESS:** Is that better?

23 **MR. NICKEL:** Yes. Thank you.

24 **BY MR. NICKEL:**

25 Q. Let's restart. Where do you work, Agent Herman?

1 A. I work for the Federal Bureau of Investigation, the FBI.

2 Q. How long have you worked there?

3 A. A little over 16 years.

4 Q. What do you do there?

5 A. Currently, I'm the supervisor of the Lafayette and the Lake
6 Charles offices.

7 Q. Can you tell us about your career before you got into the FBI?

8 A. Sure. I was in the Army for a little while. When I got out, I
9 joined the Montgomery Police Department in Montgomery, Alabama.

10 Q. How long were you with Montgomery PD?

11 A. A little over four years.

12 Q. Your training with Montgomery PD, did you get any kind of
13 specialized academy training? Or is it all on the job?

14 A. No, no. You go through a police academy. And it was around 20
15 weeks, give or take a couple of weeks. And then after you graduate
16 from the academy you go through -- everybody goes straight to
17 patrol. I went to, we called it third shift patrol. Basically
18 night shift. For the first 24 -- I believe it was 24 weeks, you
19 are under what's called a field training officer. You are riding
20 with senior officers. You're learning on the job there, which is
21 extremely valuable. You get a lot of out that.

22 Q. So before you go to FBI, do you end your career on patrol?

23 A. No. I did over two years on patrol, third shift. And then I
24 went -- Montgomery PD, we had a full-time S.W.A.T. team, so I went
25 from patrol to S.W.A.T. and stayed there until I joined the FBI.

1 Q. Any training or experiences with your time with Montgomery PD
2 that's helped you in your role as an FBI agent?

3 A. Tons. I don't know if we have enough time for that.

4 Q. Summarize it, if you don't mind.

5 A. Summarize it. So the patrol is extremely valuable. It's
6 something I wish everybody had the opportunity to do because you
7 learn not just about the criminal justice system, how to establish
8 probable cause, make arrests, et cetera, but you learn how to deal
9 with people. You learn the ins and outs of different people. And
10 same with S.W.A.T. because S.W.A.T., where that doesn't really help
11 with the FBI investigative side, you do get to watch the actual
12 investigators because all the stuff you're doing with S.W.A.T. is
13 based on their investigations. You learn a lot.

14 Q. Right. Did you receive any training before becoming an FBI
15 special agent through the FBI?

16 A. All agents have to go through the FBI Academy in Quantico,
17 Virginia. And I think that was around 20-21 weeks.

18 Q. Okay, 20-21 weeks. What kind of things do they teach you at
19 Quantico?

20 A. The basics of federal law enforcement, which includes a lot of
21 the same things you do when you're with the police academy: you
22 know, the basics of legal probable cause, the physical fitness
23 standards, firearms, defensive tactics. But also the variety of
24 investigations the FBI conducts, which the FBI is a lot of
25 different arenas. There's obviously the counterterrorism side of

1 the house, the counterintelligence, cyber, the various types of
2 criminal investigations, such as gangs, public corruption, fraud.
3 You go through a lot during those 21 weeks.

4 Q. Did you graduate Quantico?

5 A. I did.

6 Q. Successfully?

7 A. Well, I'm here, yes.

8 Q. Do you get sent somewhere in the United States?

9 A. You do. You get a sheet of paper your sixth week into the
10 academy. They've changed that now. Back then, your sixth week
11 into the academy, you get a sheet of paper that tells you where
12 you're going.

13 Q. Where did it tell you you were going?

14 A. The original sheet said New Orleans, but that's New Orleans
15 division because that's our big -- our headquarters is in New
16 Orleans. And then a couple weeks later I found out I was actually
17 coming to Lafayette.

18 Q. You've been here ever since?

19 A. I decided to stay here, yes, sir.

20 Q. You mentioned previously that you're a supervisory special
21 agent. Can you tell us a little bit more about what that means?

22 A. Sure. A little over two years ago, I became the supervisor of
23 the Lafayette and Lake Charles offices. So I supervise all the
24 agents as well as the support staff that work in those offices.

25 Q. How long have you been a supervisory special agent?

1 A. A little over two years.

2 Q. So you talked about it a little bit. What's your geographical
3 area of responsibility?

4 A. So basically between Lafayette and Lake Charles. We have
5 everything west of the Basin Bridge all the way to the Texas border
6 south of Alexandria. So I believe it's 13 parishes overall.

7 Q. And what kind of cases does the FBI work?

8 A. You have your classic criminal cases that FBI has been working
9 since it started: your bank robberies, your fraud cases, your
10 corruption cases. We have a violent gang program, drug cases. The
11 other side of the house is what we call the national security side
12 of the house, where we work our counterterrorism,
13 counterintelligence. There's also a cyber side of the house that
14 I'm not really good at.

15 Q. So that leads me to my next question. Before you became a
16 supervisory special agent, were you just what we would call a field
17 agent?

18 A. I was, yes.

19 Q. What is a field agent?

20 A. A field agent -- it could also be referred to as a case agent,
21 or just a special agent, is the actual title. It's somebody who
22 works cases. They get assigned investigations and they conduct
23 those investigations.

24 Q. So when you were a field agent, what kind of cases did you
25 work?

1 A. When first come out of the academy and get assigned, you work a
2 variety of cases, a lot of those I just named. About two years
3 into my career here in Lafayette, I started working a public
4 corruption case that took a lot of time, took a lot of resources.
5 That case alone probably was two years almost solely working that
6 one.

7 After that, I started -- I got assigned to what we call
8 the Safe Streets Gang Task Force, which is FBI run, it's with -- we
9 have task force officers from our local departments. They come
10 their side of that. And we work -- it's violent gangs, drug
11 organizations, basically the most violent threats of the area. Did
12 that for about six years.

13 And then with this investigation that we're here for
14 today, I got kind of back to the public corruption angle.

15 Q. Okay. And just to be clear, you're no longer a case agent;
16 right?

17 A. I'm not. I supervise the case agents.

18 Q. Agent Herman, were you involved in a case called Operation
19 Cajun Hustle?

20 A. Yes, I was.

21 Q. Are you the case agent for Operation Cajun Hustle?

22 A. Currently I'm the supervisor of the case agent, but I was one
23 of the case agents who started the case and did the bulk of the
24 investigation.

25 Q. You said you used to be a case agent. Can we talk a little bit

1 more about what a case agent is?

2 A. Sure.

3 Q. What is a case agent?

4 A. So the case agent is responsible for the investigation. It's
5 responsible for, number one, planning the investigative steps
6 you're going to take. There are -- you're responsible for, you
7 know, updating, making sure the case file's correct. Basically,
8 you're responsible for the outcome of the investigation as far as,
9 you know, how it goes in the long run. And, you know, sometimes
10 you can make mistakes in them and they never see the light of day
11 with an arrest or court, or what have you. But you're the ultimate
12 -- basically, you're the detective assigned to a case.

13 Q. So in its broadest terms, what is Operation Cajun Hustle?

14 A. Cajun Hustle is an investigation that going from what started
15 with an extortion scheme at the local -- and a bribery scheme at
16 the local district attorney's office here in Lafayette. During the
17 course of the investigation, it expanded into not only that scheme
18 but multiple schemes throughout the state of Louisiana. So a
19 public corruption investigation involving multiple different
20 schemes.

21 Q. Before this case, Operation Cajun Hustle, which you've just
22 described it as, were you involved in a public corruption case
23 concerning the Lafayette District Attorney's Office around
24 2011-2012?

25 A. I was.

1 Q. Through your investigation in that case and this case, did you
2 learn how district attorney's office works?

3 A. Yes. I learned a lot about how the district attorney's office
4 works, particularly here in the Lafayette, which is called the 15th
5 JDC District Attorney's Office.

6 Q. And you were in here for Mr. Landry's testimony; correct?

7 A. I was in here.

8 Q. What parishes does that cover?

9 A. Lafayette, Vermilion, and Acadia Parishes.

10 Q. So a district court, do you work with, let's say, local law
11 enforcement as part of your job as an FBI agent?

12 A. I do all the time.

13 Q. You help them with their cases?

14 A. Yes, and they help us with ours. Yes. It's a mutual
15 relationship.

16 Q. So what is district court on the state level?

17 A. Sure. If you give me a sec, I can try to sort that through
18 because it's an open question.

19 Q. How does district court differ from city court?

20 A. Correct. All right. So city court is the municipal court for
21 municipal violations that doesn't handle anything higher than a
22 misdemeanor traffic ticket, where they will take -- for instance,
23 Lafayette City Court accepts cases from the Lafayette Police
24 Department and I believe the Lafayette City Marshals. So city
25 court compared to district court is often referred to as state

1 court or parish court or, in other states, county courthouse, that
2 type of thing, which handles -- it's sort of, like, the Walmart of
3 the criminal justice system. They take everything from your local
4 traffic tickets, if it's out in the parish or if a sheriff's deputy
5 stops you right here in Lafayette, all the way to the majority of
6 your murder cases. That's definitely compared to city, federal,
7 and district court, district court is the biggest of the court
8 systems within the criminal justice system.

9 Q. Okay. I want to go back to talking about Operation Cajun
10 Hustle. When did it begin?

11 A. July of 2021.

12 Q. How did it begin?

13 A. I received information that a local gym owner was basically
14 extorting a guy who had pending charges within the local, within
15 Lafayette Parish; that he was -- this gentleman was saying that he
16 could basically make those charges go away for a significant amount
17 of money.

18 Q. Who was the gym owner?

19 A. Joe Prejean.

20 Q. Who is Joseph Prejean?

21 A. Joe Prejean, he also goes by Big Poppa or Pop, is a gym owner.
22 He owns Big Poppa's Gym just on the north side of Lafayette, but
23 he's also a motivational speaker, who, come to find out, has an
24 association with pretrial intervention in Lafayette and elsewhere.

25 Q. What's that association?

1 A. He's a vendor.

2 Q. Just remind us what a vendor is.

3 A. A vendor is a -- in connection with this investigation
4 particularly with PTI, is somebody that -- it's a business. It's a
5 private business that has an agreement or contract with the
6 district attorney's office to provide a service. The vendor gets
7 paid by the defendant, and that's their service. So, for instance
8 if somebody is in pretrial intervention, has an OWI, which is
9 operating a vehicle while intoxicated -- commonly also a DUI, is
10 what most people call it -- that will -- they may have to take a
11 defensive driving course. Well, the district attorney's office
12 doesn't -- may not provide a defensive driving course. They'll say
13 you have to go to this vendor. And that defendant, that client,
14 goes to the vendor to take that course and pays the vendor for that
15 course.

16 Q. What were the service or the services that Mr. Prejean was
17 providing?

18 A. Again, Mr. Prejean is a motivational speaker. He was providing
19 a course. They were called Wide Awake. There's another one. He
20 was affiliated with MADD, Mothers Against Drunk Driving.
21 Basically, Mr. Prejean is a convicted felon, did time in prison,
22 came out, had kind of the turned-his-life-around story and would
23 speak to the defendants that were assigned to PTI.

24 Q. Okay. Your tip that you received that someone was being
25 extorted by Mr. Prejean; correct?

1 A. Correct.

2 Q. Did you do anything to confirm its validity; that it actually
3 was happening?

4 A. Yes, we did.

5 Q. What did you do?

6 A. We went -- well, so that tip came in through an attorney,
7 through this defendant's attorney. So we requested to actually
8 speak with that defendant the next day. And by defendant, the
9 person who was facing charges in the 15th JDC. So the following day
10 we had a meeting with the attorney and his client to kind of get
11 the firsthand account of what exactly happened. And so the client
12 explained how they came in contact with Mr. Prejean, what was said
13 between the two of them. And then what we did was to confirm that
14 a little more, was we asked this individual if they would do what's
15 called a consensual recorded call with Mr. Prejean.

16 Q. What is a consensually recorded call?

17 A. In Louisiana and most states, one party has to consent to a
18 conversation if they're going to record it, minus a court order,
19 which is completely separate. But it's where one party's
20 consenting to record that conversation. In this case, they are
21 consenting to record it on our behalf.

22 Q. Okay. Did you conduct it, the consensual recorded call with
23 Mr. Prejean?

24 A. Yes, we did.

25 Q. And the individual who brought you the tip, was he part of the

1 conversation?

2 A. He was. That was the person that actually called Mr. Prejean
3 and it was a follow-up to the previous conversation they had, where
4 it kind of went over, like, you said you can take care of my
5 charges. And in the long run it was a rather lengthy conversation.
6 Mr. Prejean wasn't secret about it at all. Basically \$30,000 cash
7 and the charges could go away.

8 Q. So did the call corroborate the tip?

9 A. The call did corroborate.

10 Q. What is corroboration in your line of work?

11 A. Corroboration is confirming one piece of information through
12 another set of facts. The way I often describe it is if you have a
13 confidential informant tell you that the bad guy drives a red
14 truck, well, if you go do surveillance of the bad guy and he's
15 driving a red truck, you just confirm that the confidential
16 informant corroborated.

17 Q. So besides corroborating the initial tip, does this call give
18 you anything -- anywhere to go with an investigation?

19 A. Yes. The call clearly gave indications that Mr. Prejean had
20 somebody on the inside. Furthermore, it gave us indications that
21 there was somebody on the inside in the criminal justice system in
22 particularly at the district attorney's office here in Lafayette.

23 So what we did was we kind of -- you know, and oftentimes
24 I guess in our business, we call that he's got a hook. He's got
25 somebody in the system that's facilitating -- you know, if Mr.

1 Prejean, the gym owner, can extort \$30,000 cash out of somebody to
2 make charges go away, he's got to have somebody.

3 Q. So besides the call, what -- with Mr. Prejean, what did you do
4 next?

5 A. With Mr. Prejean?

6 Q. Correct. Or with the investigation.

7 A. With the investigation, so the idea at the time was if the
8 person who was cooperating with us had that contact with Mr.
9 Prejean, the next step would likely be Mr. Prejean would be in
10 contact with the person, whoever his, quote/unquote, hook would be.
11 So what we did was we got a subpoena for Mr. Prejean's telephone
12 records. We, in the business, call them toll records. But it's
13 basically your telephone bill. You look to see who you call, date,
14 and time. That sort of thing.

15 Q. All right. Let's talk about toll records a little bit more.
16 Whenever you get someone's toll records --

17 A. Sure.

18 Q. -- what can you see? And what can you not see?

19 A. So you can see the telephone -- the numbers that are in contact
20 with, the date and time that that call connection was made. You
21 can see whether it's a phone call or, like, a text message. What
22 you can't see, it doesn't have, like, the contact name next to it,
23 and you don't get content. So if you see a text message, you don't
24 actually get to see the content of that message. You have no idea
25 what it was.

1 Q. What do you mean by content?

2 A. Content would be a text message where you say, "Hi, how are
3 you?" The, "Hi, how are?" is the content of the message.

4 Q. But it would still say who sent it to who --

5 A. It would.

6 Q. -- and the time and the date?

7 A. It would. It would have the numbers of who sent it to who, not
8 the names. Not like you know how you put somebody contact
9 associated with a number.

10 Q. At the time of this investigation, who was the district
11 attorney in Lafayette?

12 A. Don Landry.

13 **MR. NICKEL:** I'm going to refer to what's previously been
14 introduced as Government's 31, if we can pull it up on the screen.
15 It's the organizational chart from the DA's office.

16 Judge, this has previously been admitted. I would ask
17 that it be published to the jury.

18 **THE COURT:** It's already published.

19 **BY MR. NICKEL:**

20 Q. All right. Do you recognize this, Agent Herman?

21 A. I do.

22 Q. Did you help prepare it?

23 A. I did.

24 Q. Mr. Landry, at the top, looks familiar?

25 A. He does. Mr. Don Landry, he was the district attorney. Still

1 is.

2 Q. And there's two branches going from Mr. Landry; correct?

3 A. Correct.

4 Q. All right. So I want to talk about the PTI vendors. Do you
5 see Mr. Prejean on here?

6 A. I do.

7 Q. Can you mark it on your screen? Do you have that capability?

8 A. Is there a pen?

9 Q. You may not.

10 **THE COURT:** You can use your finger, I think, Agent
11 Herman.

12 **THE DEPUTY CLERK:** There is annotation on the side.
13 Click the button.

14 **BY MR. NICKEL:**

15 Q. If you can't figure it out, it's not a big deal.

16 So Mr. Prejean, can you just describe where he is?

17 A. Yes. If you're facing it, he's at the far left at the top of
18 that bracket. Got the goatee.

19 **MR. NICKEL:** Can we highlight him? You can zoom out of
20 that.

21 **BY MR. NICKEL:**

22 Q. Let's go to our right. Mr. Franques, Who is he?

23 A. Leonard Franques is a -- he's a businessman, a very successful
24 businessman. He provided -- his main area of -- that he provided
25 for the PTI programs was online courses. He and his wife, Michelle

1 Franques, owned a company. They owned a lot of companies, but one
2 of them specifically related to PTI is called Midway Media. Midway
3 Media provides the online courses that a defendant may have to take
4 as part of the PTI program. They had provided a variety of them.
5 A lot of them are called CBT, which stands for cognitive behavioral
6 therapy. So if you hear CBT, it's related to Mr. Franques' Midway
7 Media. In addition to that, he also had sort of an outpatient
8 counseling evaluation service that he provided related to it called
9 Lake Wellness. And the name would also be Addiction Specialist.

10 But they're all essentially under the Midway Media umbrella.

11 Q. So lake Wellness/CBT under Midway Media?

12 A. Yes, sir. Correct.

13 Q. All right. Let's go back to Mr. Prejean now that we have his
14 face up here. Can you remind us what classes he offered?

15 A. Yes. He --

16 Q. I'm sorry to cut you off. But whether they were in person,
17 online, or maybe both?

18 A. Both. I know once COVID hit in 2020, I believe he started
19 doing a lot of Zoom courses. So obviously, people couldn't go in
20 person anymore.

21 Q. And what kind of classes?

22 A. Motivational speaker. There was one, they called it Wide
23 Awake. Another, he is associated with Mothers Against Drunk
24 Driving.

25 Q. Let's go down from Mr. Prejean. Mr. Gomez, are you familiar

1 with him?

2 A. Mr. Gomez, yes. He owned one company called AME, Acadiana
3 Monitoring and Evaluation.

4 Q. So when we talk about all these people, these are companies
5 they own associated with the 15th Judicial District District
6 Attorney's Office?

7 A. Yes. When I'm saying these companies, yes, these were the
8 companies associated with the 15th JDC PTI.

9 Q. Companies that would provide classes to defendants?

10 A. Yes.

11 Q. I'm sorry. Can you tell us a little bit more about Mr. Gomez?

12 A. Sure. I'm sorry. Yeah, Mr. Gomez was a vendor. He owned AME,
13 which is Acadiana Monitoring and Evaluation. They provided things
14 like drug tests. He also owned one called Woodlake, not to be
15 confused with Mr. Franques' Lake Wellness. But Woodlake was a
16 similar rehabilitation service.

17 Q. Now, Mr. Burton to our right of Mr. Gomez, are you familiar
18 with him?

19 A. Yes, I am.

20 Q. Did he provide any services as a vendor to the 15th JDC?

21 A. He did. He also provided an online service. He provided
22 traffic online courses. And it can get confusing. Mr. Burton and
23 Mr. Franques' businesses were connected. Mr. Burton provided --
24 they often referred to as back-of-the-house services for Mr.
25 Franques' courses, where Mr. Burton -- his website hosted Mr.

1 Franques' courses. So whenever there was -- one of these vendors
2 got paid, some of the money went to both of them.

3 Q. Okay. Now if we go from Mr. Landry and we follow the branch to
4 the right where it says "PTI staff," do you see Mr. Haynes there?

5 A. Yes, I do.

6 Q. And what was his role in the pretrial diversion program?

7 A. He was the assistant district attorney assigned as the
8 supervisor of the pretrial intervention program.

9 Q. Mr. Guidry, are you familiar with him?

10 A. I am.

11 Q. What was his role?

12 A. Mr. Guidry was a long-time -- the PTI -- I don't know what his
13 exact title was with the East Baton Rouge Parish District
14 Attorney's Office, the 19th JDC. But he ran their PTI program.
15 He's not an attorney. He's not a prosecutor. He's not an ADA. In
16 2021 when Mr. Landry took office, Mr. Guidry's still working in the
17 East Baton Rouge Parish, also began working with the Lafayette
18 office as a consultant. He was brought in to revamp the PTI
19 program.

20 Q. Okay. And Ms. Perez, can you tell us who she is?

21 A. Sure. She's been in the PTI program in Lafayette for a very
22 long time. She is -- her title is the director. So she, too, like
23 Mr. Guidry, is not an assistant district attorney, not an attorney
24 at all. But she is essentially the supervisor that manages the,
25 what they call the coordinators or sometimes the probation officers

1 that are to the screen to her right.

2 Q. My next question was: Do you see the coordinators on the
3 screen?

4 A. I do.

5 Q. Are these the ladies all the way to the right in the column?

6 A. Yes, I do.

7 Q. Describe their role in pretrial diversion.

8 A. So the coordinators are the ones that are the hands-on managers
9 with the clients, or defendants, that are allowed into the PTI
10 program. They go through and they are to make sure that they
11 complete all their courses, maintain their files, and keep them up
12 to date.

13 Q. Okay. Do they -- are they responsible for talking to the
14 defendants?

15 A. Yes, they are.

16 Q. Okay. What's the next investigative step after the consensual
17 call and Mr. Prejean's toll records that you mentioned?

18 A. And before -- just because this screen was made for this
19 specific reason. There was one other vendor, Brandon Shelvin and
20 Amy Jones. They weren't on this bracket, but they were associated,
21 also. They provided the GPS monitoring devices as part of PTI, but
22 they weren't added on this.

23 Q. What was your next investigative step after the consensual
24 phone call and the toll records?

25 A. So, again, going back to getting -- had the phone call that

1 obviously indicated something suspect was taking place. So looked
2 at the toll records to identify, see if we could identify who Mr.
3 Prejean may have been in contact with in close proximity to that
4 timeframe that they were in contact with the person who cooperated.
5 See, and, you know, the idea is somebody is going to be within the
6 system that he was in contact with. And that's where we identified
7 Dusty Guidry.

8 Q. So earlier when we talked about the toll records, you were
9 looking for someone maybe on the inside; right?

10 A. Correct.

11 Q. Was there constant contact or a large amount of contact between
12 Mr. Guidry and Mr. Prejean?

13 A. A lot of contact.

14 Q. So do you recall the date that Mr. Guidry started at the DA's
15 office?

16 A. Talking about the district attorney's office in Lafayette?

17 Q. Yes.

18 A. It was earlier in 2021, around the same timeframe that Mr.
19 Landry became the district attorney.

20 Q. And do you recall when the tip came in that Mr. Prejean was
21 extorting defendants?

22 A. It was July of 2021.

23 Q. So that would have been after Mr. Landry started?

24 A. Yes, sir.

25 Q. After Mr. Guidry got on?

1 A. Yes, sir.

2 Q. So you find out that Mr. Guidry may be the person on the inside
3 that Mr. Prejean is talking about; right?

4 A. Correct.

5 Q. So once you establish that, what do you do next?

6 A. Well, it had to be a little more because when we first found
7 Dusty Guidry, like the inside person, what came about was when you
8 look Mr. Guidry up, Mr. Guidry worked for the Baton Rouge district
9 attorney's office, which didn't make any sense to us at the time
10 because if Joe Prejean is talking about fixing a case in Lafayette,
11 how is this guy associated with PTI in Baton Rouge going to be able
12 to do that? So through a little further investigation, that's
13 where we found that Mr. Guidry was also working in Lafayette as
14 sort of a PTI consultant.

15 Q. Okay. So once you established that Mr. Guidry is a PTI
16 consultant, that he's talking to Mr. Prejean, what's your next
17 investigative step?

18 A. We continued to get more background, find out more about Mr.
19 Prejean and Mr. Guidry. Based on the way the investigation was
20 going and everything we knew at that point, we knew what we were
21 going to need was a Title III, commonly referred to as a wiretap or
22 just a wire.

23 Q. All right. What is wiretap?

24 A. A wiretap is where you get court authorization to overhear
25 people's conversations. More often than not, it's referring to a

1 telephone. It can refer to, for instance, if you're in an office,
2 a certain office location, we call it a bug or listening device.
3 But a wiretap is often we're going to intercept somebody's
4 conversations.

5 Q. Earlier you described a consensually recorded phone call. Do
6 you recall that?

7 A. I do.

8 Q. Now you're describing a wiretap.

9 A. Yes.

10 Q. Can you tell us or describe to us the difference between the
11 two?

12 A. Sure. In a consensual recording, one party to that
13 conversation is consenting to having that conversation recorded.
14 In a wiretap, they do not know that their conversation is being
15 recorded.

16 Q. Did you get a wiretap? I know you said you started working
17 towards one in this case, but did you successfully get one?

18 A. Yes, we did.

19 Q. I want you to explain the process of getting a T3.

20 A. Sure.

21 Q. Do you just go start listening? Turn on the button and start
22 listening to someone's phone?

23 A. Not at all.

24 Q. Tell us about the process of getting a T3.

25 A. It's extensive. So number one, you have to write an affidavit

1 explaining the probable cause you have to believe, number one, that
2 federal offenses are being committed. And it has to be specific
3 federal offenses. Not all of them are under the statute that
4 allows for a Title III. You have to show that certain individuals
5 are involved in those offenses. And then you have to show whatever
6 device or devices or location you want to have tapped, have
7 listening on, are used in furtherance of those offenses. So you
8 have to write an affidavit explaining all of those factors and the
9 probable cause to listen to somebody's conversations. And then in
10 addition during the affidavit we have a section called, what we
11 refer to often as necessity or exhaustion, where we have to explain
12 every other investigative technique that we have used, that we
13 could used -- could have used, and explain what we did or why we
14 didn't do it and why that doesn't fulfill the whole goals of the
15 investigation. That's because we understand that when we're
16 listening to people's private conversations that that's government
17 getting in people's lives. We understand that. So it's a very
18 thorough process for us to actually be able to do that. It's not
19 like TV where we just go and we want to hear so and so's calls and
20 click a button.

21 Q. Once you write the affidavit with all the information you just
22 described, do you send it straight to the judge?

23 A. No, we don't. We go through a process where we draft it. It
24 goes to whatever Assistant United States Attorney, such as
25 yourself, would be assigned to the case. They review it to make

1 sure all the factors are there; that all the probable cause is
2 there, and everything is right. Then it goes to their supervisor,
3 then to an office up in Washington, D.C., called Office of
4 Enforcement Operations. We refer it -- and we like our acronyms --
5 OEO. OEO, that's their job, is to review those to make sure that
6 we have done everything properly to go up on those Title IIIs. And
7 only with their blessing, once it's handed down from their higher
8 levels, can we even present it to a federal judge.

9 Q. In this case, your first one, did you get through that process
10 and present it to a federal judge?

11 A. We did.

12 Q. Judge still has to sign it; right?

13 A. Yes.

14 Q. Can you listen to calls from wherever you want?

15 A. No, no, no. It has to be in a confined space. In this case,
16 like an FBI -- we have a designated area for it. We simply call it
17 the wire room. Only, you know, limited access to that. And then
18 it obviously has to be in whatever judicial district the Title III
19 was signed, that's where it has to be monitored from. So we got
20 these -- the ones we're talking about today, we got these signed in
21 Lafayette. It had to be monitored in the Western District of
22 Louisiana. For instance, we couldn't first listen to them in New
23 Orleans because that's outside of the Western.

24 Q. While we're on that subject, describe to us how many federal
25 districts are there in Louisiana.

1 A. There's three. There's the Eastern District, which is New
2 Orleans and the New Orleans area; the Middle District is Baton
3 Rouge and basically the Baton Rouge area; and then everything west
4 of really the Basin Bridge for the entire state is the Western
5 District of Louisiana, which is what we're in right now.

6 Q. Okay. You talked about where you can monitor calls. Can
7 anyone go into a wire room and listen to calls?

8 A. No, no. You have to be --

9 Q. Who is allowed in there?

10 A. Only the people that are granted the access and have a need to
11 be in there, such as the people that will be monitoring or working
12 on the -- otherwise working on the investigation.

13 Q. So you can't just go get Joe Blow off the street and ask him to
14 --

15 A. No. It's generally federal agents, task force officers, or it
16 can be support personnel that are assigned to us, like intel
17 analysts.

18 Q. Did you have experience with writing wiretaps before working on
19 this case?

20 A. I did, yes.

21 Q. How many wiretaps have you authored?

22 A. I have no idea. A decent amount.

23 Q. Sure. Twenty? North of twenty?

24 A. North of twenty.

25 Q. Fifty?

1 A. No, I wouldn't think so. North of twenty.

2 Q. They're pretty lengthy?

3 A. They're very lengthy, yes.

4 Q. So when you start the process of getting a wiretap in this
5 case, whose phone were you first starting to try to intercept calls
6 on?

7 A. Joe Prejean.

8 Q. Okay. How long were you allowed to listen to calls?

9 A. So when you get, again, we call it a Title III or a wire order
10 signed by the judge, you're given 30 days -- 30 days. And then if
11 you want to go further, you have to do a whole other affidavit,
12 which we call an extension.

13 Q. So were you successful in getting a wiretap on Joe Prejean's
14 phone?

15 A. Yes, we were.

16 Q. Do you recall when you were successful or you flipped a switch
17 and you started listening?

18 A. I think the first day was August 23rd of 2021.

19 Q. Okay. Did you listen to the whole 30 days?

20 A. We did, yes.

21 Q. After the initial 30 days on Mr. Prejean's phone, did you go
22 down on the wire or did you continue it?

23 A. No. In fact, I think with Mr. Prejean, before the 30 days were
24 even up we had gotten an extension signed for that phone, as well.

25 So I think on September 21st was when the extension went into

1 effect.

2 Q. Explain to us what an extension is.

3 A. An extension is -- when you get an order to listen to
4 somebody's phone, you get 30 days. As you're doing it, you believe
5 you need more time and there's probable cause to do that, you have
6 to go through that process we just went through again with drafting
7 it, going to the United States Attorneys Office, up to Department
8 of Justice in Washington, and then back to a judge to get it signed
9 again for an additional extension of 30 days.

10 Q. So you were on the first wiretap for 30 days beginning August
11 23 of 2021?

12 A. Yes, sir.

13 Q. Were you successful in getting an extension on Mr. Prejean's
14 phone?

15 A. Yes, we were.

16 Q. And was it just an extension, or anything else?

17 A. No. There was also a spinoff, which a spinoff is when you're
18 doing an investigation and you're doing Title IIIs, is part of it
19 developing a conspiracy and you develop probable cause from your
20 initial wire, which in this case was on Mr. Prejean's phone, on
21 another -- on a coconspirator's phone. So at the same time we got
22 the extension for Joseph Prejean's additional 30 days, we did a
23 spinoff onto Dusty Guidry's phone.

24 Q. I just want to break things down a little bit. Your 30 days on
25 Mr. Prejean's phone; correct?

1 A. Uh-huh.

2 Q. And then you apply for and are granted another 30 days;
3 correct?

4 A. Correct.

5 Q. But on how many phones this time?

6 A. On two. So the additional 30 days on Mr. Prejean and 30 days
7 on Mr. Guidry.

8 Q. Okay. And then after those 60 days, do you end your wiretap
9 portion of the investigation?

10 A. No. We got an -- we ended the portion on Mr. Prejean's phone.
11 So into October we ended Mr. Prejean. We got an extension on Mr.
12 Guidry in October for another 30 days. And then we did another
13 extension on Mr. Guidry in November for an additional 30 days. And
14 I think our last day of his wire, when it went down, was December
15 18th of 2021.

16 Q. So from August 23rd of 2021 until you say December -- you said
17 18th?

18 A. I think the 18th. I may be off by a couple days.

19 Q. -- of '21, were you constantly up on the wire?

20 A. Every day.

21 Q. Okay. Did you personally listen to every call?

22 A. No.

23 Q. Okay. Do you have a team of FBI agents who listen to the call?

24 A. We do. We had a team that would do it. And we would also
25 review them, go through them all. But, yes, I did not personally

1 listen. It would have been impossible, especially with Dusty's
2 phone.

3 Q. After the first 30 days with just Mr. Prejean's phone, what did
4 you learn about Mr. Prejean's relationship with the district
5 attorney's office?

6 A. In its most basic sense, Mr. Prejean was, in fact, a vendor
7 that specifically related to the PTI program; that he would accept
8 money and his main hook was, in fact, Dusty Guidry. And they were
9 doing with what they did with the person who made the initial
10 complaint in the consensual recording, where he would basically try
11 to extort \$30,000. Mr. Prejean would do that and he would split
12 that money with Mr. Guidry.

13 Q. Okay. So you're on the wire from August to December of 2021.
14 After the wire comes down, are you required to give notice to the
15 people that were on the wire?

16 A. Eventually.

17 Q. Can you describe that process a little bit more to us?

18 A. Sure. There's something in the -- I guess the legal term is
19 inventory notice. Anybody that's identified as being overheard
20 during the course of a Title III wire interceptions, it doesn't
21 matter if they are the person whose phone was subject to the
22 interception or that they were in any way involved in the crimes
23 that were taking place, but if they were identified as being
24 overheard -- and the best way I have always described it to people
25 that get this letter, because they call us and ask what is this

1 letter about, is if we -- if the bad guy, drug dealer orders a
2 pizza from Papa John's and the Papa John's guy identifies himself
3 as John Doe, John Doe is getting a letter. That's all it is. And
4 I'm not sure if it's 60 or 90 days after the end of the wires that
5 those notices go out, but it's often -- you get orders to postpone
6 them because the investigation is still ongoing. But eventually if
7 you are identified as being overheard, you get a letter.

8 Q. Okay. And that's just anyone; correct?

9 A. That's anyone.

10 Q. Okay. I want to go back to Mr. Franques and talk about him a
11 little bit more. Has Mr. Franques pled in this case?

12 A. He has.

13 Q. And what was Mr. Franques' relationship with the PTI program?

14 A. He was a vendor. He was a -- somebody gets into PTI, a
15 defendant. They get assigned courses, various tasks they have to
16 complete to complete the PTI program and have their charges
17 dismissed. They may have to take his online courses, for instance.
18 They had a few. One common was called CBT: Effective Decision
19 Making. They may have to take and pay for -- I think that one was
20 \$185. Go online, take this course. And that shows up. The PTI
21 coordinator says, okay, he completed that.

22 So he would do that. And, also, again, with Lake
23 Wellness, he had a counseling session or a counseling program where
24 they can be assigned. You have to take so many counseling sessions
25 with that.

1 Q. I want to talk about CBT a little bit more. When we talk about
2 CBT, you mention there were -- Effective Decision Making was a
3 class you said. So are there different CBT courses?

4 A. Yes.

5 Q. Can you name a few?

6 A. There's a CBT, I think, shoplifting; CBT theft prevention.
7 There was a CBT driving course, which was the most expensive of
8 them. I think most of them were 185, but I think the driving
9 course was, like defensive driving, was around 350.

10 Q. Besides CBT, Midway Media -- can you tell us what that is?

11 A. Midway Media is the overarching company that the Franqueses,
12 Leonard and Michelle, had. It had actually a physical location in
13 the Oil Center of Lafayette. I believe the address is 201 Oil
14 Center Drive. That was the business that supplied these online
15 courses. They were the business that actually had, you know, that
16 provided the service to the district attorney's office.

17 Q. Okay. So we talked about Midway Media. That's Mr. Franques?

18 A. That is Mr. Franques.

19 Q. Who is Mr. Franques' wife?

20 A. Michelle Franques.

21 Q. Did he work with them with CBT Midway Media?

22 A. Yes. And the arrangement with those two was sort of -- Leonard
23 was the face of the business. Leonard is a very social, sociable
24 person. He was the outgoing, kind of the sales guy; whereas,
25 Michelle was the one that was in the office. She was handling the

1 everyday business issues with it, and she also handled all the
2 payments.

3 Q. Besides Midway Media, Lake Wellness, CBT, did Mr. Franques own
4 any other companies?

5 A. Yes, a bunch.

6 Q. Or was involved in; right?

7 A. He was involved in a lot, yes.

8 Q. He was a businessman?

9 A. Correct.

10 Q. Did you collect records from the Secretary of State for Midway
11 Media?

12 A. We did, yes.

13 **MR. NICKEL:** Judge, I'll notice that these documents have
14 been noticed in the record under Rule 902. If we can pull up
15 Government's Exhibit 16 for the witness only.

16 **BY MR. NICKEL:**

17 Q. Do you recognize this document, Agent Herman?

18 A. I do.

19 Q. What is this?

20 A. That's the Secretary of State record. Secretary of State
21 record for Midway Media, LLC.

22 **MR. NICKEL:** All right. There's several pages. Do we
23 have a way of just clicking through them?

24 **BY MR. NICKEL:**

25 Q. And just take your time. If you'd like us to stop, but we're

1 just going to let you familiarize yourself with these documents if
2 that's okay.

3 A. Okay.

4 Q. All right. Let's go back to the top. Are you familiar with
5 these documents?

6 A. I am.

7 Q. Have they been altered in any way?

8 A. No.

9 **MR. NICKEL:** Judge, I would like to offer, file, and
10 introduce Government's Exhibit 16.

11 **MR. CLEMONS:** No objection, Judge.

12 **THE COURT:** Without objection, let it be entered.

13 **MR. NICKEL:** And published, please.

14 **THE COURT:** All right.

15 **MR. NICKEL:** All right. Can we blow up the first half of
16 this picture, please?

17 **BY MR. NICKEL:**

18 Q. All right. And can you just show us -- tell us when it
19 originated, based off of this first page?

20 A. December 29th of 2020.

21 Q. And this is Midway Media, which we have been talking about;
22 correct?

23 A. That's correct.

24 **MR. NICKEL:** Can we go to page 6, please? All right. If
25 we could blow it up the best we can.

1 **BY MR. NICKEL:**

2 Q. The address of the registered office, can you read that for us?

3 A. 201 Oil Center Boulevard, Lafayette, Louisiana 70503.

4 Q. Have you ever been there?

5 A. I have.

6 Q. Have you ever seen Mr. Haynes there?

7 A. I have.

8 Q. The full name and address of the registered agent, Henry C.
9 Perret, Jr., do you know who that is?

10 A. Yes. I believe he was a lawyer associated with the Franques
11 family.

12 Q. But the first manager and her address, can you read that?

13 A. It's Michelle F. Franques, 201 Oil Center Boulevard, Lafayette,
14 Louisiana 70503.

15 Q. And her relation to Mr. Franques, Leonard Franques?

16 A. They're married.

17 Q. Was Mr. Franques involved with a company called Lake Wellness?

18 A. Yes, he was.

19 Q. I believe we covered that extensively. But did you collect
20 records from the Secretary of State for Lake Wellness?

21 A. Yes.

22 **MR. NICKEL:** Judge, I'll pull up Government's Exhibit 17,
23 if that's okay. I'll note these documents have been noticed under
24 Rule 902 in the record.

25 **THE WITNESS:** To go back on your last question -- have I

1 been there? -- I don't know if I've ever actually been inside the
2 business. I have been on the outside of it. I want to clarify
3 that.

4 **MR. NICKEL:** Okay.

5 **THE DEPUTY CLERK:** Is 17 part of 16?

6 **MR. NICKEL:** No, 17 is separate from 16.

7 **THE DEPUTY CLERK:** Took it off the jury?

8 **MR. NICKEL:** Yes. Thank you.

9 **BY MR. NICKEL:**

10 Q. Only you can see that. You can see it on your screen?

11 A. I got it.

12 Q. So are you familiar with these documents?

13 A. Yes, I am.

14 Q. What are they?

15 A. These are the Lake Wellness Center, LLC, documents from the
16 Secretary of State.

17 **MR. NICKEL:** If we could just go through briefly so he
18 can familiarize himself with these documents.

19 **BY MR. NICKEL:**

20 Q. All right. Are these familiar to you, Agent Herman?

21 A. They are.

22 Q. Have you reviewed them before testifying today?

23 A. I have.

24 Q. Have they been altered in any way?

25 A. No, sir.

1 **MR. NICKEL:** Judge, I'll move to offer, file, and
2 introduce Government's 17, please.

3 **THE COURT:** Any objection?

4 **MR. CLEMONS:** No objection.

5 **THE COURT:** Without objection, let it be entered.

6 **MR. NICKEL:** And published. All right. If we can blow
7 up the first half of this.

8 **BY MR. NICKEL:**

9 Q. Can you tell us when this company originated?

10 A. January 22, 2019.

11 Q. Again, a Mr. Franques company?

12 A. Yes.

13 Q. And if we could go to page 12, please. There's a portion --
14 let me see if I can read it -- where there is a new registered
15 agent. Can you see that?

16 A. Yes.

17 Q. And well, I guess that's Mr. Breaud notarized it, but do you
18 see who that agent is?

19 A. Yes, Alan Breaud.

20 Q. Yes. And then below that there is indicating a change.
21 There's an additional member; correct?

22 A. Yes.

23 Q. We can just go to Mr. Franques' name. All right. You see Mr.
24 Franques. That address, 200 Heymann, are you familiar with that
25 address?

1 A. I have seen it on this. I don't know of his association with
2 it once the investigation started, but it's in the Oil Center, as
3 well.

4 Q. But different from Midway Media; correct?

5 A. Different from Midway Media.

6 **MR. NICKEL:** If we can take off Exhibit 17.

7 **BY MR. NICKEL:**

8 Q. Agent Herman, did you execute any search warrants in this case?

9 A. We did.

10 Q. Was Leonard Franques' residence one of the locations you
11 searched?

12 A. Yes.

13 Q. Do you recall when you searched Mr. Franques' residence?

14 A. December 8th of 2021.

15 Q. Okay. Can you tell us about that search warrant? Was it
16 covert or overt?

17 A. It was more covert.

18 Q. Can you tell us the difference between an investigation being
19 covert and an investigation being overt?

20 A. Sure. So a covert investigation that is few people are going
21 to know about the investigation as possible. You're going to kind
22 of do everything, so to speak, on the down low as far as you don't
23 want the targets of the investigation to be aware that they are
24 being investigative. Cases like this are -- certainly start out as
25 covert, or they should. So we were covert. So doing a covert

1 search warrant, the way I speak, is not going in there with big FBI
2 raid jackets, a S.W.A.T. team busting down the doors, anything like
3 that. So is that what you're asking?

4 Q. Correct. And as overt would be going in with FBI jackets, you
5 know, all of that?

6 A. That would be overt. An overt investigation would be
7 essentially you're out there, everybody can see that they're being
8 investigated. The subjects may be aware that they're being
9 investigated.

10 Q. Okay. And the wiretap portion is covert, as well?

11 A. Yes. It wouldn't be a very good wiretap if it wasn't.

12 Q. What happened the day you searched Mr. Franques' residence?

13 A. So myself and two other agents, we alone went one morning to
14 Mr. and Mrs. Franques, after their kids had left, went to their
15 house. We knocked on the door. We asked to talk to them. They
16 agreed to talk to us. We pretty easily confronted them with we
17 know what's going on, you know, as far as your relationship with
18 the pretrial intervention program, as well as some other things
19 that they were involved with. And they agreed to talk to us. They
20 agreed to cooperate.

21 Q. So I think we got ahead of ourselves. But did you develop
22 information or evidence during the wiretap portion that caused you
23 to execute a search warrant on Mr. Franques' residence?

24 A. Yes, a lot.

25 Q. And just give us a summary of what you learned.

1 A. So a summary.

2 Q. Best you can.

3 A. Best we can. That's going to be pretty...

4 So during the course, are you talking about referring to
5 Mr. Guidry's Title III and what we learned related to Mr. Franques?

6 Q. Yeah, that's all we covered so far. So what kind of
7 information did that T3 give you as far as Mr. Franques?

8 A. As far as Mr. Franques --

9 Q. I guess that caused you to execute a search warrant.

10 A. Sure. So once we realized Dusty Guidry is involved in several
11 different -- they would call them schemes, we called them hustles.
12 Leonard, particularly as it related to Dusty Guidry, it was
13 identified that Leonard Franques and Michelle were important to
14 what he was doing; i.e., they were giving him related to the online
15 courses with PTI, they were giving money to Mr. Guidry, and then
16 related to another factor that was going on related to the
17 Department of Wildlife and Fisheries, there was also a kickback
18 scheme going on in that realm.

19 Q. So Mr. Guidry was an employee at the district attorney's
20 office; correct?

21 A. Correct.

22 Q. And you heard Mr. Landry say that employees are not allowed to
23 accept money from vendors; correct?

24 A. Correct.

25 Q. Did you establish that in the wire?

1 A. Yes. It was very easily established.

2 Q. And so before you execute the search warrant on Mr. Franques,
3 is there any documentary evidence that you researched?

4 A. Yes. There had been -- particularly a financial investigation
5 was going on at the same time. We really had a financial team
6 working on the background of all the players that were involved.

7 Q. Okay. Anything from that investigation that also helped your
8 ability to search Mr. Franques' house?

9 A. Yes. There was the financial investigation corresponded with
10 what we were hearing on the wire, being the kickback scheme.

11 Q. And so we're all a little bit probably more familiar with a
12 regular search warrant than we are with a wiretap. But briefly,
13 can you bring us through the process of getting a search warrant?

14 A. Sure. A search warrant is much less detailed than having to
15 get a wiretap, but it's the same principle. The agents have to
16 draft an affidavit explaining all the probable cause that these
17 certain crimes, in our case federal crimes, are being committed and
18 whatever location or whether it's a device, whatever you want to
19 search is used in furtherance of that criminal activity /and it
20 could be to store records or, you know, it could be in the case of
21 a cell phone -- messages on a phone, that type. So it's the same
22 as you draft an affidavit, it's presented to a federal judge, and
23 they have to authorize that search.

24 Q. And were you successful in getting that search warrant?

25 A. Yes. And we got search warrants for that day on both Mr. and

1 Mrs. Franques' residence as well as their business at Midway Media.

2 Q. All right. And did Mr. Franques elect to cooperate?

3 A. He and Ms. Michelle did.

4 Q. And at the time they elected to cooperate, was the operation
5 overt or covert?

6 A. It was still covert.

7 Q. Agent Herman, did you save some of the calls from the wiretap?

8 A. Yeah, they were all saved.

9 Q. They're all saved?

10 A. Yes.

11 Q. Did you select some to be played in court today?

12 A. We did, yeah.

13 Q. Have you reviewed them before testifying?

14 A. Yes.

15 Q. How were you given the calls to review?

16 A. On a thumb drive.

17 Q. Were they accurate recordings of the original calls that you
18 captured?

19 A. They were, and they were broken into clips. So most of them
20 are not the entirety of the calls. But the clips, yes, they are
21 accurate.

22 **MR. NICKEL:** Judge, I would like to note the
23 authentication portion of our T3 wiretaps was noticed in the record
24 under a 902 notice to save us from having to come get the FBI
25 technical assistant on the stand.

1 **BY MR. NICKEL:**

2 Q. Did you help prepare the transcripts?

3 A. Yes.

4 Q. What are transcripts?

5 A. Transcripts are the verbatim, the written dialogue that they're
6 saying during the course of the wiretaps.

7 Q. All right. What did you do with the transcripts?

8 A. The transcripts were provided to the United States Attorneys
9 Office where they were synced with the audio.

10 Q. Did you review those synchronizations?

11 A. I did.

12 Q. Were there any discrepancies?

13 A. No discrepancies in the actual verbatim, a couple typos. But
14 there's one call where I think it says -- most of the transcripts
15 will say "incoming from" or "outgoing to." There was one that said
16 "incoming and outgoing," and there was another one I think the time
17 that the call was made was not on there. But no issues with the
18 actual transcripts.

19 Q. How did you review them?

20 A. Through the thumb drive on a computer.

21 Q. Are you able to identify the thumb drive that you reviewed the
22 calls from?

23 A. I should be.

24 **MR. NICKEL:** All right. Can I have the ELMO now if
25 that's okay? Just for the witness, please. There's kind of a

1 glare.

2 **BY MR. NICKEL:**

3 Q. Do you recognize this, Agent Herman?

4 A. I do.

5 Q. Okay. I'm going to flip it over. Did you sign it?

6 A. I did. And I put which one it was because I did a couple of
7 these.

8 Q. All right. Does that look familiar?

9 A. That is. That's my signature, and these are the calls for the
10 Title III that are going to be used for this trial.

11 Q. All right. And you did say that's your signature; right?

12 A. Yes, sir.

13 Q. **All right.** How do you know that? You signed it?

14 A. I did.

15 **MR. NICKEL:** Judge, at this time, I would like to offer,
16 file, introduce Government's Exhibits 201-003, 201-005, 203-001,
17 205-001, 206-001, 207-001, 208-003, 209-003, 210-001, 212-001,
18 213-001, 215-003, 216-001, 217-003, 217-005, 218-001, 230-001,
19 232-001, 233-003, 236-001, 239-001, 240-001, 241-001, 242-001,
20 243-001, and 245-001.

21 **THE COURT:** Okay. Mr. Nickel, what rule of evidence are
22 you offering this under?

23 **MR. NICKEL:** Judge, so these are all going to be
24 coconspirators' statements and statements by a party opponent.

25 **THE COURT:** Okay. Any objections to the admission of

1 those documents?

2 **MR. JOHNSON:** I think Your Honor is aware of the
3 objections that we've raised, Your Honor, and our plan to deal with
4 that after this.

5 **THE COURT:** That's primarily the Rule 106; correct?

6 **MR. JOHNSON:** That's correct, Your Honor.

7 **THE COURT:** I'll admit the recordings.

8 **BY MR. NICKEL:**

9 Q. All right. When did you say the title wiretap portion of this
10 investigation began?

11 A. August 23rd would have been the first day of Mr. Prejean's wire.

12 Q. Okay. And so August 23rd to September 23rd would have been just
13 Mr. Prejean's wire?

14 A. Yes. And we got the extension from Mr. Prejean signed before
15 it ended. So when you get an extension signed, you don't get to go
16 all 30 days and an additional 30 days. So if you get an extension
17 signed on Day 28, that ends that period and you start. Does that
18 make sense?

19 Q. Yes.

20 A. So you essentially get like 58 days.

21 Q. My question is: September 17, 2021, whose wiretap would you
22 have been up on?

23 A. Joseph Prejean.

24 **MR. NICKEL:** Can we publish Government's Exhibit 205-001?
25 If we can get some volume.

1 (Audio recording playing.)

2 **BY MR. NICKEL:**

3 Q. Agent Herman, do you recognize the parties of that phone call?

4 A. Yes. That was Dusty Guidry and Joe Prejean.

5 Q. They've both pled in this case?

6 A. They have.

7 Q. The call, the individual that they were talking about getting
8 two DWIs and, in fact, a third while he was in, did you ever
9 discover who that was?

10 A. We did.

11 Q. Who is that?

12 A. His name is Guy Halley.

13 Q. Can you give us a little bit more details about his course, his
14 case?

15 A. Sure. So Mr. -- I don't remember if it is Halley or Halley,
16 but he was in what the PTI program in Lafayette was calling the OWI
17 second, so meaning his second offense driving under the influence,
18 operating a vehicle while under the influence, PTI portion. While
19 he was on that, he was on vacation in Florida and got another OWI.
20 And that's -- because he was already in PTI in Louisiana and
21 Lafayette, that creates the issue.

22 Q. Okay. Do you know if he was ultimately kept in PTI?

23 A. He was.

24 **MR. NICKEL:** Okay. If we could play Government's Exhibit
25 206-001.

1 (Audio recording playing.)

2 **BY MR. NICKEL:**

3 Q. Agent Herman, remind us what CBT is again.

4 A. CBT is the abbreviation for cognitive behavioral therapy. It's
5 a course or a series of courses that were created by a psychologist
6 out of Michigan. They were supposed to be the cream of the crop as
7 far as online therapy courses back then. I don't know if they
8 still are. But they were purchased by Mr. Franques, and that was
9 part of his online services.

10 Q. Earlier you mentioned, when we had the chart up, that he
11 provided CBT courses in the 15th Judicial District?

12 A. He did.

13 Q. Did he provide CBT courses anywhere else?

14 A. He provided them in several districts throughout the state.

15 Q. Okay. Earlier you gave us some examples of CBT classes. Would
16 you mind doing that again before we play the next call.

17 A. Sure. The one they commonly refer to is Effective Decision
18 Making. They may say it in terms of CBT: Effective Decision
19 Making. There was also a CBT theft course. There was I think
20 there was a shoplifting course, and there may have been separate
21 courses for juveniles and adults. And there was a CBT driver's
22 course which was the -- again, that was the most expensive one.

23 Q. What was that one called? Do you know?

24 A. Defensive Driving. It was a very bland name, CBT: Defensive
25 Driving.

1 Q. Was there a reckless operation?

2 A. I believe so, yeah.

3 **MR. NICKEL:** All right. I would like to play -- publish
4 Government's Exhibit 210-001.

5 (Audio recording playing.)

6 **BY MR. NICKEL:**

7 Q. Do you know who David is, Agent Herman?

8 A. Yes. They are referring to David Burton, who was one of the
9 vendors we had up on the screen earlier. And this is part of --
10 when I refer to what they say as back-of-the-house or David hosting
11 the Franqueses' courses, this is what they're referring to.

12 **MR. NICKEL:** You can go ahead and play it.

13 (Audio recording playing.)

14 **BY MR. NICKEL:**

15 Q. Do you know what they're talking about right there, Agent
16 Herman?

17 A. You're talking about that last segment?

18 Q. Sure. About David and the relation to him putting certain
19 classes on the website.

20 A. What exactly are you asking? What are they...

21 Q. So what was the problem that Mr. Guidry was discussing with Ms.
22 Michelle?

23 A. That people were going to the wrong site. He wanted them to go
24 to CBT: Effective Decision Making.

25 Q. And why did that benefit Mr. Guidry?

1 A. Because they were making money. CBT -- Mr. Guidry was making
2 money through all of this. CBT was the most priciest thing. They
3 wanted them to take CBT courses.

4 **MR. NICKEL:** Can we play Government's Exhibit 212-001?

5 (Audio recording playing.)

6 **BY MR. NICKEL:**

7 Q. Agent Herman, who were the parties to that call?

8 A. That was Dusty Guidry and Mr. Gary Haynes.

9 Q. And reckless ops, something Mr. Haynes mentioned that he sent a
10 defendant to, was that a CBT course?

11 A. Reckless op is the charge, the criminal charge, reckless
12 operation of a motor vehicle. It's sending them to a CBT course.

13 Q. And Mr. Guidry said, "CBT, that's what you're supposed to do."
14 Correct?

15 A. Yes, he did.

16 Q. Mr. Guidry was getting paid for CBT courses; correct?

17 A. He was.

18 **MR. NICKEL:** Let's go ahead and play Government's Exhibit
19 215-003.

20 (Audio recording playing.)

21 **BY MR. NICKEL:**

22 Q. Do you know who they're talking about there, Agent Herman?

23 A. You're talking about the defendant?

24 Q. Yes.

25 A. Yes. The defendant named Tara Wells.

1 Q. Did you look at Ms. -- well, let me ask you this: When you
2 executed the -- did you execute a search warrant on the district
3 attorney's office?

4 A. Yes, not until much after this, in May of '22.

5 Q. Was there PTI files in there for defendants?

6 A. There were.

7 Q. Was Ms. Wells' file one of the ones that you received from that
8 -- recovered from that search warrant?

9 A. Yes, it was.

10 Q. Did you review it?

11 A. I did.

12 Q. And what was Ms. Wells' situation in PTI?

13 A. Ms. Wells was obviously in the PTI program. She had two OWIs
14 or DUIs in Lafayette in a very close proximity of time, and they
15 both contained an additional charge. One was an OWI with child
16 endangerment. The other was -- it wasn't child endangerment, but
17 it was something similar. But I think one may have been September
18 of 2020, the other in December, so a very close timeframe, while at
19 the same time she got in trouble with drugs in St. Martin Parish,
20 which is a different district. That's the 16th JDC.

21 Q. Was she allowed to enter the pretrial diversion program?

22 A. Yes. She was.

23 Q. All right. Now, do you know who verified her or approved her
24 for the pretrial diversion program?

25 A. Yes. Mr. Haynes.

1 **MR. NICKEL:** Let's go ahead and play Government's Exhibit
2 217-005.

3 (Audio recording playing.)

4 **BY MR. NICKEL:**

5 Q. Again, earlier you said Mr. Haynes had to approve defendants
6 for PTI; right?

7 A. Yes. He did. I don't know if I said that earlier, but, yes,
8 he was the ADA assigned to PTI.

9 Q. And this call specifically, why did you choose this call?

10 A. This call related to the authority of Mr. Guidry going to Mr.
11 Haynes.

12 Q. In fact, Mr. Haynes hadn't seen the case yet, but he was going
13 to approve it?

14 A. That's what it sounded like on the call.

15 Q. Who's Mr. Boustany?

16 A. Boustany is a defense attorney. There's two Boustany's. I know
17 Mr. Landry related to this earlier. There's Alfred Boustany II,
18 which is they refer to the older Boustany; Alfred Boustany III, who
19 they refer to the younger Boustany.

20 Q. Who is Mr. Abraham?

21 A. Mr. Abraham is another defense attorney, Grady Abraham.

22 Q. So when Mr. Guidry said, "Grady's client" and "Mr. Boustany's
23 client" it would allude to two defense attorneys in the community;
24 correct?

25 A. Correct.

1 Q. Let me ask you this: Did Mr. Haynes know Mr. Boustany and Mr.
2 Abraham?

3 A. Yes.

4 **MR. NICKEL:** Let's play Government's Exhibit 230-001.

5 (Audio recording playing.)

6 **BY MR. NICKEL:**

7 Q. Agent Herman, did you hear Mr. Guidry mention a dentist?

8 A. Yes.

9 Q. Do you know what case that's referring to?

10 A. That's referring to Barry Petry.

11 Q. And here they discuss what they're going to do with the
12 dentist; correct?

13 A. Correct.

14 Q. And what classes will the dentist be taking?

15 A. So they get counseling sessions through Lake Wellness, which
16 that's one of Mr. Franques' company that's not on paper under but
17 financially the money from Lake Wellness gets combined with the
18 money from Midway Media; so it's -- the CBT courses and Lake
19 Wellness are sort of all together. That was probably something I
20 should have said earlier. Mr. Prejean was sort of a life coach, so
21 he said life coaching with Joe Prejean.

22 Q. Okay. Was Mr. Franques wealthy?

23 A. Yes, I think by most standards. I consider him wealthy, yes.

24 Q. Who is Leo? Is that one of his sons?

25 A. Leo is -- he's got one son, Leo.

1 Q. Were there any conversations about -- between Mr. Guidry and
2 Mr. Franques about giving Mr. Haynes a vehicle?

3 A. Yes. There were conversations related to how they were going
4 to make payments to Mr. Haynes, and one that came up was getting
5 him a vehicle.

6 **MR. NICKEL:** If we can publish 242-001.

7 (Audio recording playing.)

8 **BY MR. NICKEL:**

9 Q. Who is Mendoza, Agent Herman?

10 A. Mendoza in this context, I believe they're referring to -- I
11 think it's Mendoza Ford, a car dealership.

12 (Audio recording playing.)

13 **BY MR. NICKEL:**

14 Q. Agent Herman, there Mr. Franques and Mr. Guidry discuss getting
15 Haynes a truck. But did they discuss how it's going to be done?

16 A. Sure, through one of Mr. Franques' companies.

17 Q. Okay. Is that something you found Mr. Guidry was doing, as
18 well?

19 A. Yes. Mr. Guidry was getting -- Mr. Guidry obtained -- or a
20 vehicle was provided to him and his wife through one of Mr.
21 Franques' companies.

22 Q. Provided how? Leased? bought?

23 A. Leased, I believe it was.

24 Q. To Mr. Guidry himself?

25 A. To, I believe it was his wife. It was to Mr. -- I can't

1 remember if it was to an actual company. Mr. Guidry had a couple
2 companies, but his wife was driving it. I think it was a Lincoln
3 Navigator.

4 Q. And did Mr. Guidry and Mr. Franques often talk about how to do
5 things and I guess ways that would expose their tax liability in
6 the least amount of ways?

7 A. Yes.

8 Q. Ways that would expose their criminal liability in, I guess,
9 the most secretive way?

10 A. They did, yeah. That's referencing -- they said, "no paper
11 trail."

12 Q. You said Mr. Guidry pled guilty in this case; correct?

13 A. He did.

14 Q. What were some of the various schemes that he was involved in?

15 A. Okay. Give me a minute. So Mr. Guidry when we started on,
16 when we went live on his phone on his Title III in September, I
17 think 21st was the first day of his phone, we were going under the
18 PTI corruption scheme that was taking place that we identified and
19 we got evidence of through the wiretap on Mr. Prejean's phone.
20 When we started on Mr. Guidry's phone, it was sort of the amount of
21 I guess different corruption schemes that he was involved in, it
22 was a lot. So it wasn't just the whole PTI program, not just in
23 Lafayette. Mr. Guidry had been doing this in Baton Rouge for
24 years.

25 That was one. But it was also -- Mr. Guidry was also a

1 commissioner on the Louisiana Department of Wildlife and Fisheries
2 Commission. There was a corruption scheme that was hot and heavy
3 taking place at the time that we went up on his phone, so a lot of
4 his time was spent dealing with that scheme. It was a kickback
5 scheme involving Mr. Franques as well as the secretary of Wildlife
6 and Fisheries in which they were going to generate something
7 similar to PTI with Wildlife. So oftentimes we refer to these
8 different schemes as the PTI scheme, the Wildlife scheme.

9 There was a third scheme that we may refer to. We call
10 it the GPP scheme. There is a -- when you go to purchase anything
11 with a card, a credit card, if you go to Starbucks on your way here
12 in the morning and you slide your card through that, that's called
13 a third-party processor. So that third-party processor, the money
14 ends up with Starbucks, but that third-party processor takes a
15 percentage out of it. GPP was -- and it's changed names a couple
16 of times. I know it was also called PPP at one point. I think
17 it's different now, if it even still exists.

18 GPP was a third-party processor based out of here in
19 Louisiana. Mr. Guidry and some other people throughout the state
20 come together. They were going to get business for GPP, and part
21 of that business would be these offices, such as the Lafayette
22 District Attorney's Office. When you get assigned to PTI and you
23 have to -- I know Mr. Landry was up here earlier talking about the
24 enrollment fee, oftentimes around \$1,000, you have to pay with
25 credit card, slide that card. GPP got 3.99 percent. Well, Mr.

1 Guidry and others got a commission. So that's the GPP.

2 And he was trying constantly for other, we call them
3 schemes. He referred to them as hustles.

4 Q. And you're using a lot of acronyms in the common federal agent
5 practice, but GPP was a card processing company; correct?

6 A. Correct. And that was it's name, was GPP.

7 Q. So whenever someone buys something and they swipe their credit
8 card, right, at a store -- Walmart, Winn-Dixie -- those stores
9 aren't providing that machine that processes it; right?

10 A. No.

11 Q. That would be a third party; correct?

12 A. Correct.

13 Q. And so GPP was a company that provided that service to
14 businesses, right, that had to accept payments via credit card,
15 debit card, and whatnot; correct?

16 A. Correct. And as I'm thinking about it, that name was Global
17 Processing Partners. They just always referred to it as GPP.

18 Q. All right. The Fish and Wildlife scheme that you talked about
19 Mr. Guidry being involved in, you called it the LDWF scheme?

20 A. We call it the Wildlife scheme, but they always refer to Fish
21 and Wildlife as LDWF. We, the investigators, we just refer to it
22 as the Wildlife scheme.

23 Q. And the third one, something you've called CBT; correct?

24 A. CBT is related to cognitive behavioral therapy and PTI,
25 pretrial intervention program. So, yes, there's a lot of acronyms

1 going here.

2 Q. But those are in their other separate schemes; correct?

3 A. Separate schemes.

4 Q. I just want to make sure that we have that because you have
5 used a lot of acronyms and it's very confusing.

6 A. Sorry.

7 Q. That's okay.

8 Who is Rene? Do you know who Rene is?

9 A. Rene, as related to this case?

10 Q. Yes.

11 A. Rene Bonneval.

12 Q. Who is that?

13 A. Rene Bonneval is from Lafourche, Terrebonne Parish area. He is
14 -- I've never met him -- but related to somebody in the Terrebonne
15 District Attorney's Office. He was the person that was going to be
16 the -- I guess the front to receive the money from the, again, what
17 we call the GPP scheme and distribute it to Dusty Guidry and
18 others. Does that make sense?

19 Q. Yes. It's going to make a lot more sense after this call.

20 **MR. NICKEL:** If we could publish Government's Exhibit
21 243-001.

22 **BY MR. NICKEL:**

23 Q. Who is Big G?

24 A. Big G is a name they playfully called Gary Haynes.

25 (Audio recording playing.)

1 **BY MR. NICKEL:**

2 Q. Agent Herman, did Mr. Guidry work for Mr. Franques, in a sense?

3 A. I guess you could say in a sense that he did. He was paid by
4 Mr. Franques, but he certainly wasn't an employee of Mr. Franques.

5 Q. And I'm not talking about a legal sense. I'm talking about
6 doing work for Mr. Franques.

7 A. Yes.

8 Q. Okay. What was the arrangement between Mr. Franques and Mr.
9 Guidry as to how Mr. Guidry would get paid?

10 A. He was going to get, related to the online courses -- not just
11 in Lafayette but through the other various parishes that he got
12 into throughout Louisiana, Mr. Guidry was going to get a piece,
13 possibly up to 50 percent of each area.

14 Q. Would you call that a commission?

15 A. It could be called a commission.

16 Q. So was it Mr. Guidry's best interest to push CBT to other
17 judicial districts?

18 A. Yes, it is.

19 **MR. NICKEL:** You can go ahead.

20 (Audio recording playing.)

21 **BY MR. NICKEL:**

22 Q. All right. Who is David?

23 A. This is, again, referencing David Burton. In this case Mr.
24 Guidry is explaining this new deal, if you will, putting CBT in
25 this other jurisdiction, and because David is -- again, David

1 Burton provides that back-of-the-house service for Mr. Haynes --
2 Mr. Franques' courses -- Mr. Franques is asking: Is David getting
3 a piece of this, as well?

4 **MR. NICKEL:** You can go ahead and play it.

5 (Audio recording playing.)

6 **BY MR. NICKEL:**

7 Q. So Mr. Guidry there at the end -- there's a lot -- but is
8 talking to Leonard about a new deal outside of the 15th JDC;
9 correct?

10 A. Correct.

11 Q. And Mr. Guidry says Mr. Haynes won't be included in this
12 because he doesn't give us anything there; correct?

13 A. Correct. Yeah, Mr. Franques was asking if Mr. Haynes was
14 involved in this part, too, related to these other jurisdictions,
15 and Mr. Guidry was saying, no, he's not.

16 Q. And did you later learn that Mr. Haynes -- and we've talked
17 about this -- was involved in the 15th JDC, essentially, CBT scheme
18 that we talked about earlier?

19 A. Yes. And I don't know, I don't remember the date of this call
20 we just called, if we learned it after or we had actually gotten
21 indications of it before. But yes.

22 Q. Who is Jack --

23 A. Jack is --

24 Q. -- as it relates to this conspiracy and these calls? I'm not
25 just asking anybody that you know with the name Jack.

1 A. I know a few. Jack related to this case is going to be Jack
2 Montoucet. He was the secretary of Louisiana Department of
3 Wildlife and Fisheries.

4 Q. Who is Greg Logan?

5 A. Greg Logan was at the time of this the city attorney -- not the
6 city prosecutor, but the city attorney for Lafayette Consolidated
7 Government. Essentially, the easiest way to look at it, the way I
8 think of it is basically he is the mayor's attorney.

9 Q. And were there discussions between Mr. Guidry and Mr. Franques
10 about how Mr. Haynes, besides the call we just heard, about how Mr.
11 Haynes would be, I guess, compensated for his role in the scheme?

12 A. Yes, there were.

13 **MR. NICKEL:** Can we play Government's Exhibit 245-001?

14 (Audio recording playing.)

15 **BY MR. NICKEL:**

16 Q. Who is that talking right now?

17 A. That's Leonard Franques.

18 Q. Who are the parties to this call?

19 A. Are you referring to who's on the phone?

20 Q. Yes. With Mr. Franques.

21 A. Dusty Guidry.

22 **MR. NICKEL:** Can we start it from the beginning, if you
23 don't mind?

24 (Audio recording playing.)

25 **BY MR. NICKEL:**

1 Q. Do you know who Ashley is?

2 A. Ashley, I believe she was the CPA for the Franqueses, certified
3 public accountant.

4 (Audio recording playing.)

5 **BY MR. NICKEL:**

6 Q. Have you heard the term "shake" or "get a shake" in your line
7 as an FBI special agent?

8 A. Yes, I have.

9 Q. What does that mean?

10 A. A kickback, a bribe, shake somebody down.

11 Q. So Mr. Guidry said, "You can't get a shake in jail." Why might
12 that be?

13 A. You're in jail. Because if you get caught, you go to jail.
14 You can't get a kickback because you're no longer available.

15 **MR. NICKEL:** You can keep playing.

16 (Audio recording playing.)

17 **BY MR. NICKEL:**

18 Q. Agent Herman, did Mr. Haynes have an oil field company?

19 A. He was connected with the oil field.

20 Q. Did he have a private law office?

21 A. He did have a private law office.

22 Q. Before that last portion of the call, Mr. Guidry seems
23 frustrated with something. What was that?

24 A. Mr. Guidry was frustrated, and we heard of a lot of this over
25 the course of the wiretap, was that he was frustrated with how the

1 Lafayette DA's office, particularly the PTI program, was
2 functioning. He was, with that last portion, what he was
3 particularly referring to with the phones was that in Lafayette
4 when a defendant goes to the PTI office, they can't bring their
5 phones into the courthouse, much like this courthouse. The PTI
6 office is in the sixth floor of the big courthouse.

7 When Mr. Guidry is in Baton Rouge, he doesn't have that
8 problem because PTI is in an offsite. So he wants them to be able
9 to get up there and sign them up immediately because they have to
10 do it with their phones. But because they go up there to meet with
11 their coordinators, then leave, then it kind of -- they get lost.
12 And I think I misinterpreted your question earlier about the shake,
13 was that's what he was referring to. If they don't do the programs
14 and end up in jail, they can't give a shake.

15 Q. Meaning they can't pay?

16 A. Correct, yeah. I think I was saying it backwards.

17 Q. So that's okay. If we can go back to the beginning of this
18 call and just see when it was. Do you recall the date that Mr.
19 Leonard Franques started cooperating?

20 A. December 8, '21.

21 Q. Okay. I just want to look at the beginning of this call. And
22 stop it right there. So this would be before Mr. Franques started
23 cooperating; correct?

24 A. Almost a month before, yes.

25 Q. And so this idea of getting Mr. Haynes a truck after January

1 never came to fruition; correct?

2 A. It never did.

3 Q. In fact, Mr. Franques was cooperating with you and the FBI
4 before January ever came; correct?

5 A. Correct.

6 Q. Are you familiar with the term "tickling the wire"?

7 A. I am.

8 Q. What does that mean?

9 A. When you're on a wire, a Title III, whenever you -- a tickle is
10 a way to set up an action that causes the subject of the wire and
11 maybe the others around him to do something. It throws their
12 patterns off. It throws, you know, a variable into what they're
13 doing.

14 The easiest way I can describe it is if you're on a drug
15 wire, the drug dealer, if you -- if he's got one of his suppliers
16 making a supply run and when he's coming back with the drugs, if
17 you do a probable cause traffic stop with local police, stop that,
18 well, your bigger drug dealers whose phones they're using, they're
19 not arrested, but they're going to get on the phone and talk about
20 the issues that it has. That's a tickle. You did something that
21 caused them to change their patterns. You threw something into the
22 scene.

23 Q. You threw a variable into the scheme; correct?

24 A. Correct.

25 Q. To see how they reacted?

1 A. Yes, sir.

2 Q. Did you discuss throwing -- tickling or throwing variables into
3 this operation, this investigation?

4 A. Yes. Yes.

5 Q. Can you explain -- you're not talking about tickling a wire
6 particularly but tickling an investigation; right?

7 A. Right. In this case there were ways we were thinking about
8 tickling -- because tickling a wire is specific to the Title III.
9 In this case it was the investigation overall.

10 Q. Okay. What did you do to tickle, or change, the investigation
11 overall or implement a variable into the scheme?

12 A. So going up to December 8th, we had had this investigation. We
13 had uncovered a lot of evidence of the various schemes taking
14 place, but we had all seen it through the prism of Joe Prejean and
15 Dusty Guidry.

16 Q. And you said leading up to December 8th. What happened on
17 December 8th? just so we don't forget.

18 A. December 8th is when we confronted Leonard and Michelle
19 Franques. We talked to them. They began their cooperation. And
20 through that, we were able to see that -- sort of the different
21 aspects of the investigation from another perspective because our
22 main perspective was through Dusty Guidry. He was the center of
23 all of this. And what we learned was that all the other various
24 coconspirators in the different schemes that were being committed
25 were -- it wasn't like they were in contact with one another or

1 anything like that. Dusty was the hub, so the thought was if
2 there's something -- what would happen if we did something with
3 Dusty? And it so happens that Dusty, we knew through the course of
4 the wire, would get pain pills while he was in Baton Rouge because
5 he worked in Baton Rouge parts of the week.

6 Q. You said pain pills?

7 A. Yes, illegally.

8 Q. I couldn't hear you.

9 A. I'm sorry, yeah. He was addicted to pain pills, and I believe
10 he gave some to others, possibly his wife, as well. But he would
11 -- he had a supplier in Baton Rouge and occasionally over the wire
12 we would hear when he would obtain his supply. Of course, Dusty
13 lived in Youngsville. So he would have to come all the way back.

14 So shortly after Mr. and Mrs. Franques began their
15 cooperation, we got indications that he was going to pick up
16 another supply. So what we did was decided to tickle the
17 investigation. What would happen if something changed with Dusty?
18 And having the Franqueses on our side, you know, we'd have another
19 set of ears, so to speak. So we set up what we call a probable
20 cause traffic stop.

21 Q. And so do you recall how long after setting up this stop it was
22 after Mr. Franques started cooperating on December 8th?

23 A. It was almost immediately. I think the next day, the 9th, was
24 when we got the call that indicated he was getting a supply. So
25 the stop was actually on the 10th.

1 Q. And so a probable cause traffic stop, please break that down
2 for those of us who have no idea what that is.

3 A. Sure. A probable cause traffic stop is, if a policeman does it
4 right, is probable cause. You know, you committed a traffic
5 violation. The police pulls you over.

6 In this case with Mr. Guidry -- we do it often in drug
7 cases. The local authorities, we can say that there's a car
8 possibly coming back with drugs. It's up to them to see if that
9 person commits a traffic violation, and then it's up to them if
10 they can develop probable cause to search the car. We're not doing
11 a search warrant for the car or anything like that.

12 So got with somebody I work with in St. Martin Parish
13 because going from Baton Rouge, where Dusty works for the district
14 attorney's office, to Lafayette, where Dusty works for the district
15 attorney's office, it would be probably better to stop him
16 somewhere in the middle. Somebody I had worked with in the past
17 and trusted in St. Martin Sheriff's Office at the time, got with
18 him, told him the information about the vehicle, gave him the heads
19 up when the car would be coming, and he conducted the stop.

20 Q. Was it successful?

21 A. It was.

22 Q. Did they find narcotics?

23 A. Yes, a pretty significant amount of -- I know there was Valium.
24 I think it was hydrocodone. It was a painkiller.

25 Q. So was Mr. Guidry arrested?

1 A. He was.

2 Q. Now, when Mr. Guidry was arrested, was the operation covert or
3 overt? Did you make it public?

4 A. No.

5 Q. Did you come up in your FBI jackets and say, "Mr. Guidry, we
6 know what you have been doing. We've had a wiretap on you"?

7 A. No. We didn't even talk to Mr. Guidry. We kept the
8 investigation covert.

9 Q. So were you successful?

10 A. It was, yes.

11 Q. Earlier you said that they kind of took him out of the picture
12 and forced others to talk to each other. Was he terminated from
13 the Baton Rouge District Attorney's Office?

14 A. He was -- Dusty was able to retire. He already had his time
15 in. I think he was -- in government, they call it drop. He was in
16 drop, so he was basically told to retire. And he was put on
17 administrative leave because he was on contract maybe it was just
18 you're not coming to work from the Lafayette office.

19 Q. Okay.

20 A. So he wasn't out of the picture by any means. And he was still
21 the main subject of the investigation. We're just throwing that
22 variable in there to see what happens.

23 Q. We have been talking about covert, keeping the operation
24 secret. Did it eventually go overt or public to where everybody
25 knows that we're investigating this case?

1 A. Yes. May 9th of 2022, when we did a search warrant on the
2 district attorney's office here in Lafayette.

3 Q. Okay. Tell us about the search at the DA's office. What were
4 you looking for?

5 A. Files related mainly to the participants in PTI during the time
6 period where we were able to identify them either through the Title
7 III wire or through the financial investigations that they made
8 payments to. It might have been -- Joe Prejean's business was
9 called CNA. CNA was the one affiliated with the PTI program. So
10 we had a financial investigation going with them. And I can't
11 remember if at the time we had the Midway Media records. But if we
12 did, we would have had the names of those files and they would have
13 been searched for. And at the same time, we also had a search
14 warrant for Mr. Haynes' cell phone.

15 Q. So from December of 2021 to May of 2022, what are you and your
16 team doing?

17 A. So December of 2021, we have Mr. Franques' cooperation, Dusty
18 Guidry stopped and arrested. He's suspended. The Title III goes
19 down on December -- I think I said 17th earlier. Maybe 18th.
20 Somewhere around there. Mr. Franques is on board and cooperating
21 and doing some things like that.

22 The part that I referred to earlier, the GPP
23 investigation with the third-party processor with the credit cards,
24 a lot of that was being done out of the New Orleans area. So in
25 government what happened was the case was broken off to where our

1 FBI New Orleans office took the GPP angle of the investigation, and
2 the Eastern District U.S. Attorney's Office became prosecuting just
3 the GPP. And because they were doing something covert in between
4 that gap was why the investigation kind of laid dormant aside from
5 the Franqueses' cooperation until May, so the Eastern District
6 could do their side of the investigation.

7 **THE COURT:** Mr. Nickel, let's get to a stopping point for
8 our break this afternoon.

9 **MR. NICKEL:** Sure. I actually have a different section
10 of my direct examination right now, so if you'd want to do it right
11 now, that would work, Judge.

12 **THE COURT:** That'll work. Let's take our 15-minute break
13 this afternoon. We'll come back at 3:15. All rise for the jury.

14 (Jury not present.)

15 **THE COURT:** Special Agent Herman, you remain under oath.
16 Please don't speak with counsel during the break.

17 (Off the record at 2:59 p.m.; resumed at 3:17 p.m.)

18 (Jury present.)

19 **THE COURT:** Please be seated. All right. Mr. Nickel,
20 you may continue.

21 **MR. NICKEL:** Thanks, Judge.

22 **BY MR. NICKEL:**

23 Q. Agent Herman, besides the search warrant for the district
24 attorney's office in May of 2022, did you acquire any other search
25 warrants to execute at the same time?

1 A. Yes, around the same time, yeah.

2 Q. What were those? Which ones?

3 A. So around the same time as the district attorney's office
4 search warrant?

5 Q. Yes.

6 A. So we got the search warrant for the PTI-related files, a
7 search warrant for Mr. Haynes' cell phone. At the same time --
8 during that week was when the investigation was going to go overt,
9 as you say. It was obviously going to be public after you search
10 the DA's office. The district attorney's office search warrant, as
11 well as the seizure of Mr. Haynes' cell phone, was Monday, May 9th.
12 On May 11th we searched Mr. Burton's residence in the Baton Rouge
13 area. On May 9th -- I'm sorry. On May 12th we searched Mr.
14 Guidry's residence. And then on May -- that Friday, I think it
15 was, was a search related to the Wildlife scheme.

16 Q. Okay. You need a search warrant to look at someone's phone?

17 A. Yes, you do.

18 Q. Besides the search warrant for -- I guess, let me ask you this:
19 You got a search warrant for Mr. Haynes' cell phone; correct?

20 A. Correct.

21 Q. Was there anything beneficial to the investigation on that
22 phone?

23 A. Yes, there were.

24 Q. Do you recall a text message between Gary Haynes and Greg
25 Logan?

1 A. I do.

2 Q. Would you recognize it if I showed it to you?

3 A. I believe I would.

4 **MR. NICKEL:** Can we show this witness only Government's
5 Exhibit 29?

6 **BY MR. NICKEL:**

7 Q. Do you recognize this, Agent Herman?

8 A. Yes, I do.

9 Q. What is it?

10 A. That's a text message exchange between Mr. Greg Logan, who we
11 talked about earlier was the Lafayette Consolidated Government City
12 Attorney and Mr. Haynes.

13 Q. And has the message been altered in any way since they were
14 initially dumped off of Mr. Haynes' phone?

15 A. No, not altered. It's been moved into this format so it's
16 presentable and easier to read. But the messages are the same and
17 the timestamps and dates are all the same.

18 Q. And you reviewed this. It was dumped off of Mr. Haynes' cell
19 phone from someone from your team; correct?

20 A. Correct. We have a -- we call him a computer analysis
21 examiner.

22 Q. When it comes off of Mr. Haynes' cell phone, it's in a more raw
23 form than this; correct?

24 A. Correct.

25 Q. And describe that form to us.

1 A. It's just a little more difficult-to-read format. It can be,
2 you know, exported into a spreadsheet. This is just a much more
3 easier way to read a text message exchange.

4 Q. So has the content changed at all?

5 A. No, no. And actually went -- when we did this, we went back to
6 make sure that everything was correct.

7 Q. Have the dates and time been manipulated or changed at all?

8 A. Not at all.

9 **MR. NICKEL:** Judge, at this time I would like to offer,
10 file, and introduce Government's Exhibit 29.

11 **MR. CLEMONS:** One question, Judge, I just wanted to
12 clarify. So Agent Herman, so basically you took the text message
13 and basically put them into a chart, is basically what we're
14 looking at?

15 **THE WITNESS:** This isn't a chart. It's just a way to
16 read the messages.

17 **MR. CLEMONS:** Right, but the contents is verbatim from
18 what was in the text? is my question.

19 **THE WITNESS:** Yes, sir.

20 **MR. CLEMONS:** Okay. That's all I have, Judge. No
21 objection.

22 **THE COURT:** And for the record, Agent Herman, which
23 participant is in blue and which one is in green?

24 **THE WITNESS:** In this instance, Mr. Logan is in blue.

25 **THE COURT:** All right. It will be admitted and published

1 to the jury.

2 **MR. NICKEL:** Let's go ahead and publish it. Laura, if
3 you could do your best just to highlight the pertinent parts. All
4 the way down. That's a little bit better.

5 **BY MR. NICKEL:**

6 Q. So how many parties to this text message conversation are
7 there, Agent Herman?

8 A. There's two.

9 Q. And who are they?

10 A. Mr. Greg Logan and Mr. Gary Haynes.

11 Q. On the left column, the messages in blue, do those messages --
12 were those messages sent by Mr. Haynes or Mr. Logan?

13 A. Those are from Mr. Logan.

14 Q. And in the green, that's Mr. Haynes?

15 A. That's Mr. Haynes.

16 Q. Could you go ahead and just give us the date and the time of
17 the first one and read them for us.

18 A. Sure. The first message is September 28, 2021, at 1:34 p.m.
19 And it's going to read -- this is from Mr. Logan -- [as read] "You
20 introducing another provider for PTI? The revenue share agreement
21 must be approved by the controller and most likely will required."

22 Next message goes to, "require an ordinance. Who are the
23 principles of this second company?"

24 The next message goes to, "You made need get a RFP put
25 together. I'll tell Melinda to deal directly with you."

1 Continue?

2 Q. Yes, please.

3 A. Mr. Haynes responds at 1:38 p.m., [as read] "There are two we
4 discussed in first meeting with y'all. Dusty recommended same two
5 as district. CNA is Joe Prejean. Excellent. And Leonard Franques
6 CBT. Joe has good programs. I'll talk to Dusty if you don't want
7 to, but I recommend we use his also".

8 Q. CNA, who is that affiliated with?

9 A. That was -- I believe I referenced that earlier. CNA was a Joe
10 Prejean business. That was his, I guess, entity that he used
11 related to the PTI programs.

12 Q. If you could continue.

13 A. Sure. Then Mr. Logan responded, "That's fine. I'll get with
14 the mayor president and we'll ask purchasing/finance to put
15 together their due diligence package. No more without the provider
16 submitting their qualifications and certificates. What revenue
17 share did you agree to with Joe Prejean?"

18 We go back to Mr. Haynes. [As read] "We haven't
19 discussed share but probably same as DA. I really haven't
20 discussed much about him. I'll get info today."

21 Next message from Mr. Haynes. "I just got out of court.
22 Haircut then DA office. Dusty is there now."

23 Next message. "I'll have info today."

24 Next message. "Franques works well with Prejean." It
25 goes, "They have different programs, so more to offer defendant."

1 And then Mr. Logan responds, "It should all go through
2 the seaman website that Franques setting up for city prosecutor.
3 One stop, one provider." I'm imagining he meant same.

4 Q. Was Mr. Haynes ever successful in getting CBT and Mr. Prejean's
5 classes into city court? Do you know?

6 A. So, they were used in city court. A lot of this during the
7 course of the investigation, particularly the wiretaps, because Mr.
8 Haynes is an assistant district attorney over the district
9 attorney's office PTI program. At the same time, he's the
10 Lafayette city prosecutor, so he's in city court, as well. Hence
11 why this message exchange is going on with Greg Logan, the city
12 attorney, who in essence is -- I don't know if his boss is the
13 right word, but he's over him. They could be used in city court
14 when the judge -- part of their probation if they plead no contest
15 to something, it may be take a CBT course; it may be go see Joe
16 Prejean. Whereas, with a lot of what they were doing during this
17 course was they wanted -- by "they" I mean Mr. Haynes, Mr. Guidry,
18 Mr. Franques -- they wanted a PTI program in city court.

19 Q. Okay. And I think we got off rails. But anyway, was Mr.
20 Franques and/or Mr. Prejean, their courses ever used in city court?
21 Do you know? If you don't know, that's fine.

22 A. Yes, they were.

23 Q. Okay. Do you recall a text message from Mr. Haynes' phone
24 between -- well, from Mr. Ronnie Guidry?

25 A. Yes, I do.

1 Q. Who is Ronnie Guidry?

2 A. Ronnie Guidry is the father of Dusty Guidry.

3 **MR. NICKEL:** I'd like to show the witness only
4 Government's Exhibit 38.

5 **BY MR. NICKEL:**

6 Q. Do you recognize this, Agent Herman?

7 A. There's a killer glare right here. Yes, I do.

8 Q. What is this?

9 A. This is a text message on December 14, 2021, at 11:21 a.m.,
10 from Ronnie Guidry to Mr. Haynes.

11 Q. Has the message been altered in any way since you initially, or
12 FBI initially dumped it off of Mr. Haynes' phone?

13 A. No.

14 Q. Let me ask you this: The last text message we reviewed, you
15 said it was put into an easier-to-read format?

16 A. Yes. And that's going to be the same format for all of these.

17 **MR. NICKEL:** Judge, I would like to offer, file, and
18 introduce Government's Exhibit 38.

19 **MR. CLEMONS:** No objection, Judge.

20 **THE COURT:** Without objection, let it be entered.

21 **MR. NICKEL:** And published, please.

22 **BY MR. NICKEL:**

23 Q. All right. So how many participants on this phone call, Agent
24 Herman?

25 A. Two.

1 Q. Two? Or I mean, it's to Mr. Haynes' phone; correct?

2 A. It is, yes, sir. It's Mr. Ronnie Guidry sent a message to Gary
3 Haynes.

4 Q. Did Mr. Haynes respond with anything?

5 A. No.

6 Q. What is the message?

7 A. [As read] "If you have lunch with Dusty, please let him know
8 that his phone and his wife's are bugged. Thanks."

9 Q. What does bugged mean in your line of work?

10 A. A wiretap. The government is listening in.

11 Q. What's the date of this?

12 A. December 14th of '21.

13 Q. Were you still up on Mr. Guidry's phone at this time?

14 A. We were.

15 Q. Agent Herman, are you familiar with the company called MD at
16 Law?

17 A. I am.

18 Q. What is MD at Law?

19 **MR. NICKEL:** We can take down 38, I'm sorry.

20 **THE WITNESS:** MD at Law is an LLC that was formed back in
21 2004 by Mr. Gary Haynes.

22 **BY MR. NICKEL:**

23 Q. Were there any text message on Mr. Haynes' phone regarding MD
24 at Law?

25 A. Yes, there were.

1 Q. Specifically, text message about opening a bank account?

2 A. Yes.

3 **MR. NICKEL:** If we can show this witness only
4 Government's Exhibit 30.

5 **BY MR. NICKEL:**

6 Q. Is that on your screen, Agent Herman?

7 A. Yes, it is.

8 Q. Do you recognize it?

9 A. I do.

10 Q. What is this?

11 A. This is a text message exchange between Gary Haynes and Todd
12 Nunez.

13 Q. Have these messages been altered in any way since the FBI
14 initially dumped them off Mr. Haynes' phone?

15 A. No. Only on this to put into a more easily readable format.

16 Q. What's the date of this exchange of text message?

17 A. It goes from -- I think there's a typo on one of these because
18 it says March 21st, but the text message go for June 21st through
19 June 24th.

20 Q. That's after Mr. Landry is in office; correct?

21 A. Correct.

22 **MR. NICKEL:** Judge, I would like to offer, file, and
23 introduce Government's Exhibit 30.

24 **MR. CLEMONS:** No objection, Your Honor.

25 **THE COURT:** Without objection, let it be entered.

1 **MR. NICKEL:** And publish.

2 **THE COURT:** Publish.

3 **MR. NICKEL:** Can we just blow up the top half of it,
4 please? There you go.

5 **BY MR. NICKEL:**

6 Q. Agent Herman, do you know who Todd Nunez is?

7 A. I've never met him, but I understand at the time he worked at
8 The Community Bank.

9 Q. Okay. Again, the date, June 21st, was after Mr. Landry started
10 office; correct?

11 A. Correct. He started in January of '21.

12 Q. All right. So the messages on the right in green are from who?

13 A. The messages on the -- in green are from Mr. Haynes.

14 Q. And the messages on the left in blue are from who?

15 A. Todd Nunez.

16 Q. And can you walk us through these? Read them, please.

17 A. Sure. So Mr. Haynes says, [as read] "Todd, what's the name of
18 the new bank and the locations? I need to open and checking and a
19 savings. 10,000 deposit. MD at Law, LLC."

20 Then Mr. Nunez responds, [as read] "CLB, The Community
21 Bank next to Twins on Johnston Street."

22 Mr. Haynes: "It's incorporated but no tax I.D."

23 Mr. Nunez: "The old St. Landry Bank location."

24 Mr. Haynes: "I will need some checks but not too many."

25 Nunez: "We can fix you up. Can you send me over

1 articles? You the sole owner?"

2 Mr. Haynes: "Me as sole owner."

3 Mr. Nunez: "So your social security number will be TIN
4 number?" Tax identification number.

5 And Mr. Haynes: "No. I need a new tax I.D."

6 **MR. NICKEL:** Can we bring up the bottom half of that?

7 **BY MR. NICKEL:**

8 Q. Starting with the message on the left, I think that's the one
9 we didn't cover. Top left.

10 A. [As read] "The old St. Landry Bank location."

11 Mr. Haynes: "I will need some checks but not too many."

12 Mr. Nunez: "We can fix you up. Can you send me over
13 articles? You the sole owner?"

14 Mr. Haynes: "Me as sole owner."

15 And then Mr. Nunez: "So your social security number will
16 be tax identification number."

17 And then Mr. Haynes: "No. I need a new tax I.D."

18 Mr. Nunez: "Ok. Carey knows how to call and get you a
19 new tax identification number."

20 Mr. Haynes: "Okay."

21 Mr. Nunez gives his e-mail address,
22 "Todd.nunez@cllbbank.com, my e-mail."

23 Mr. Haynes responds, "Tomorrow can we get that account
24 ready and get new EIN? Then I'll get the articles tonight."

25 Which Mr. Nunez responded, "Okay. We'll get on it."

1 **MR. NICKEL:** We can take that down.

2 **BY MR. NICKEL:**

3 Q. Did you collect other records related to MD at Law during the
4 course of your investigation?

5 A. Sure, yes.

6 Q. What are some different ways you collect records?

7 A. With records, a lot of times with a business entity like this
8 we did it through Louisiana Secretary of State.

9 Q. Did you collect any Secretary of State records for MD at Law?

10 A. Yes.

11 Q. Have you reviewed them before testifying today?

12 A. I have.

13 **MR. NICKEL:** Judge, I would like to show just this
14 witness Government's Exhibit 14. And if we could just scroll
15 through them so Agent Herman can get familiar with them.

16 **BY MR. NICKEL:**

17 Q. Do you recognize these documents, Agent Herman?

18 A. Yes, I do.

19 **MR. NICKEL:** Judge, I would like to note that these --
20 sorry, it's getting late. These documents have been noticed
21 pursuant to 902 in the record. I will now ask to offer, file, and
22 introduce them as Government's Exhibit 14.

23 **MR. CLEMONS:** No objection, Judge.

24 **THE COURT:** Without objection, let them be entered and
25 published.

1 **MR. NICKEL:** Thank you, Judge. All right. If we could
2 blow up just that first half. You can go down, down. Up. A
3 little bit more up. There you go.

4 **BY MR. NICKEL:**

5 Q. So have you reviewed this document before today?

6 A. I have.

7 Q. Again, we saw some earlier in this case, Secretary of State
8 documents; right?

9 A. Correct.

10 Q. What does this first page tell us?

11 A. The first page gives the name of the businesses and referred to
12 and then it kind of gives a timeline.

13 Q. When was this company started?

14 A. September 9, 2004.

15 Q. How do you know that?

16 A. It says it right there on the page.

17 **MR. NICKEL:** Can we highlight that? There we go. If we
18 could go to page 6, please.

19 **BY MR. NICKEL:**

20 Q. All right. Does this page look familiar?

21 A. It does.

22 Q. Okay. The address of the company's registered office, do you
23 know what that is by looking at this page?

24 A. Yes.

25 Q. What is it?

1 A. It's 1013 West University Avenue, Lafayette, Louisiana.

2 Q. Are you familiar with that address?

3 A. I am.

4 Q. And what is that?

5 A. That was Mr. Haynes' private law office address.

6 Q. Okay. Again, it looks like there's other members of this LLC;
7 correct?

8 A. Correct.

9 **MR. NICKEL:** If we can go to page 7.

10 **BY MR. NICKEL:**

11 Q. From this page, can you determine who the registered agent of
12 that company is?

13 A. Yes. It's Mr. Haynes.

14 Q. Okay. You see his name signed anywhere?

15 A. I do.

16 **MR. NICKEL:** If we can go back to page 1, please.

17 **BY MR. NICKEL:**

18 Q. After the company is formed originally --

19 **MR. NICKEL:** And if we can blow it up.

20 **BY MR. NICKEL:**

21 Q. -- what's the next thing that happens with the company?

22 A. It's revoked in 2020, November 16, 2020.

23 **MR. NICKEL:** If we could highlight that, the second row.

24 **BY MR. NICKEL:**

25 Q. After it's revoked in 2020, what's the next action that's taken

1 with this corporation?

2 A. It's reinstated May 13, 2021.

3 **MR. NICKEL:** And if we can highlight that.

4 **BY MR. NICKEL:**

5 Q. So May 13th of 2021, was Mr. Landry in office?

6 A. He was.

7 Q. And had Mr. Haynes opened up the CLB Community Bank account?

8 A. The bank account I don't think was opened until June.

9 Q. So approximately a month later, do you remember when the bank
10 account was opened?

11 A. I don't remember the exact dates, but it was June.

12 Q. So the text message exchange we just saw with Mr. Nunez, would
13 it be correct if I said it was June 21st?

14 A. Yes, around that timeframe, yes.

15 Q. So it's reinstated a month later; correct?

16 A. It's reinstated, then a month later he opens up the bank
17 account.

18 Q. Correct. Thanks.

19 If we can go to page 9. And this is -- what document is
20 this, Agent Herman?

21 **MR. NICKEL:** You can blow it up, Laura.

22 **THE WITNESS:** It's part of the documents as far as who
23 it's registered to.

24 **BY MR. NICKEL:**

25 Q. And it's actually a reinstatement document; correct?

1 A. Correct.

2 Q. By who? Do you see the digital signature at the bottom?

3 A. Yes.

4 Q. And if we could go to page 1. After it's reinstated, what's
5 the next action that takes place?

6 **MR. NICKEL:** You can blow it up again.

7 **THE WITNESS:** It's dissolved in December of 2022.

8 **MR. NICKEL:** If we can go to page 10.

9 **BY MR. NICKEL:**

10 Q. And just read what this is after "State of Louisiana," please?

11 A. "Affidavit to resolve limited liability company."

12 Q. On what date?

13 A. December 11, 2022.

14 Q. In December 11th of 2022, had you already executed the search
15 warrant at the district attorney's office?

16 A. Yes.

17 **MR. NICKEL:** I'm going to pull up Government's 30 that's
18 previously been admitted.

19 **BY MR. NICKEL:**

20 Q. Agent Herman, did you ever confirm whether Mr. Haynes opened a
21 bank account for MD at Law?

22 A. Yes, we did.

23 Q. How did you confirm that?

24 A. Through a subpoena to the bank.

25 Q. Have you reviewed the bank records for MD at Law Community Bank

1 before testifying today?

2 A. I have.

3 **MR. NICKEL:** I would like to show this witness only
4 Government's Exhibit 15.

5 **BY MR. NICKEL:**

6 Q. Do you recognize this, Agent Herman?

7 A. Yes.

8 **MR. NICKEL:** If we could go through. There's not very
9 many but go through the pages of this document so Agent Herman can
10 familiarize himself with them.

11 **BY MR. NICKEL:**

12 Q. Are these, in fact, the MD at Law bank account records that you
13 received via subpoena?

14 A. Yes.

15 **MR. NICKEL:** Judge, I've noticed these pursuant to 902 in
16 the record early in this case. Now I will move to offer, file, and
17 introduce Government's Exhibit 15.

18 **MR. CLEMONS:** No objection, Your Honor.

19 **THE COURT:** Without objection, let it be entered.

20 **MR. NICKEL:** And published, please.

21 **THE COURT:** All right.

22 **MR. NICKEL:** If we could just blow up the top, left-hand
23 upper portion. Perfect. Perfect.

24 **BY MR. NICKEL:**

25 Q. From this, can you show what date the account was opened?

1 A. June 28th of '21.

2 **MR. NICKEL:** And if we could go back out. And the top
3 right, the right-hand column all the way down. There we go.

4 **BY MR. NICKEL:**

5 Q. Who are the owners of the account?

6 A. The account owner is MD at Law with Gary J. Haynes.

7 Q. And who was the signee?

8 A. Gary J. Haynes, yes.

9 **MR. NICKEL:** If we could go to page 14. That might be
10 the wrong page. Let's go to page 15.

11 **BY MR. NICKEL:**

12 Q. Did Mr. Haynes fund the account when it was opened?

13 A. He did, from a personal account.

14 **MR. NICKEL:** Okay. If we could go to the next page.

15 **BY MR. NICKEL:**

16 Q. Did Mr. Haynes actually end up closing this account?

17 A. He did.

18 Q. When was that?

19 A. May 12th of 2022.

20 Q. So open in June of 2021, closed less than a year later;
21 correct?

22 A. Correct.

23 Q. The date this was closed, May 12th of 2022, you said?

24 A. That's correct.

25 Q. When was the search warrant at the district attorney's office?

1 A. May 9th of 2022.

2 Q. How long after the search warrant of the district attorney's
3 office did Mr. Haynes close this account?

4 A. Three days.

5 Q. I'd like to go back to something you said at the very
6 beginning. Did you lead an investigation in the district
7 attorney's office around 2011-2012?

8 A. Yes, I did.

9 Q. Did that investigation include a wiretap, like this case?

10 A. It did.

11 Q. A federal wiretap?

12 A. Yes. It was a federal wiretap.

13 Q. Were employees of the district attorney's office in Lafayette
14 accepting bribes from a person outside of the office?

15 A. They were. It was somewhat similar to the Cajun Hustle
16 investigation, but it didn't really involve the PTI program.

17 Q. Did it involve OWI cases?

18 A. A lot of them were OWI cases.

19 Q. Did at least some employees of that office get charged in
20 federal court for accepting bribes?

21 A. Yes.

22 Q. Did some of those employees plead guilty to accepting bribes?

23 A. Yes.

24 Q. Were those guilty pleas and related hearings held in this
25 courthouse?

1 A. They were.

2 Q. Do you know if Mr. Haynes was present for any of those?

3 A. He was.

4 Q. Agent Herman, what is a consensual recording?

5 A. A consensual recording is -- earlier in my testimony we talked
6 about the first person who came in to say that he was being
7 extorted, shaken down by Joe Prejean to get his charges taken care
8 of. So what we did was a consensual recording with that person,
9 where he consented to have a phone call with Mr. Prejean. So a
10 consensual recording can be a phone call or it can be a
11 face-to-face meeting. As long as one party to a conversation
12 consents to record it, in the state of Louisiana it's legal.

13 Q. Okay. Did you conduct any consensual recordings in this case?

14 A. We did.

15 Q. Did you help conduct them, I guess?

16 A. Yes.

17 Q. Did Mr. Franques conduct any consensual recordings after he
18 agreed to cooperate?

19 A. He did.

20 Q. Do you recall a consensual recording on December 14, 2021?

21 A. Yes.

22 Q. What kind of equipment did you give Mr. Franques to record that
23 day?

24 A. Mr. Franques was given a device, and he was taught how to use
25 it, how to turn it on, to where it could do audio or video or both,

1 and to turn it off.

2 Q. Was it working properly that day, the equipment?

3 A. It was.

4 Q. Does the recording device that Mr. Franques was given have a
5 transmitter?

6 A. Yes.

7 Q. What does that allow it to do?

8 A. It allows me and the other case agents to live-monitor what's
9 going on, to listen in on what's taking place.

10 Q. Okay. Were you able to live-listen to the meeting between Mr.
11 Franques -- or Mr. Franques on that date?

12 A. I was.

13 Q. And do you recall who Mr. Franques met with on that date?

14 A. He met with Gary Haynes.

15 Q. Did you save a recording of it?

16 A. Yes.

17 Q. Have you reviewed the recording of it before today?

18 A. Yes.

19 Q. Have you reviewed clips of those recordings before today?

20 A. Yes.

21 Q. Did you conduct a consensual recording operation on January 12,
22 2022?

23 A. Yes.

24 Q. With who?

25 A. January 12, 2022, was Mr. Franques, Mr. Haynes, and Mr. Guidry,

1 the three of them together.

2 Q. Who was operating or wearing the recording devices that day?

3 A. Mr. Franques had his recording device, but the January 12th
4 recording was also video recorded through a separate device that
5 was set up in Mr. Franques' office.

6 Q. Was the equipment working properly that day?

7 A. It was.

8 Q. Does the recording device have a transmitter so you can listen
9 to what happened in real time?

10 A. Yes.

11 Q. Did you operate it on that day?

12 A. Yes.

13 Q. Okay. Were you able to listen live to the meeting between Mr.
14 Franques, Mr. Guidry, and Mr. Haynes?

15 A. Yes.

16 Q. Okay. Did you save a recording of it?

17 A. Yes.

18 Q. Have you reviewed the recording before today?

19 A. I have.

20 Q. And have you reviewed clips of that recording?

21 A. I have.

22 Q. Did you conduct a consensual recording operation on February 3,
23 2022?

24 A. Yes.

25 Q. With who?

1 A. That February 3rd was just Mr. Franques and Mr. Haynes.

2 Q. Where was that?

3 A. That recording took place at Jason's Deli on Johnston Street
4 here in Lafayette.

5 Q. What kind of equipment did you give Mr. Franques that day to
6 record?

7 A. Mr. Franques had his same device that was used in previous
8 recordings.

9 Q. Was the equipment working properly that day?

10 A. It was.

11 Q. Does the recording device have a transmitter, or did that day
12 it have a transmitter where you can listen live to the
13 conversation?

14 A. Yes. I did listen live to it.

15 Q. Were you able to listen live to the meeting between Mr.
16 Franques and Mr. Haynes?

17 A. Yes.

18 Q. Was there actually FBI agents in Jason's Deli that day?

19 A. There were. They were sitting very close by.

20 Q. And why is that?

21 A. For -- to get a visual. They can also overhear, if need be.

22 Q. Okay. Did you capture everything on the recording that day?

23 A. Yes.

24 Q. Did you save a copy of the recording?

25 A. Yes.

1 Q. Did you review it before coming in today?

2 A. I did.

3 Q. Okay. Did you review clips of it from that day?

4 A. Yes.

5 Q. Finally, did you conduct a consensual recording on January 4,
6 2022?

7 A. Yes.

8 Q. With who?

9 A. That was Mr. Franques and Mr. Haynes.

10 Q. Where was that?

11 A. That one took place at Mr. Franques' home.

12 Q. What kind of equipment did you give Mr. Franques to record?

13 A. It was the same device.

14 Q. Okay. Video or just audio or both?

15 A. That one, it was supposed to be just audio. User error. And
16 it was also videoed. You don't really see anything on the video,
17 but it was --

18 Q. Turned on?

19 A. Yeah.

20 Q. Was the equipment working properly that day?

21 A. Yes, it was.

22 Q. Did that recording device that day have a transmitter to where
23 you can listen live to what's happening in real time?

24 A. Yes.

25 Q. Okay. Were you able to listen live that day?

1 A. Yes.

2 Q. Okay. Did you save a recording?

3 A. Yes.

4 Q. Did you review that recording?

5 A. Yes.

6 Q. Did you review clips of that recording?

7 A. Yes.

8 Q. On each of those dates, were you listening to the recordings
9 live?

10 A. I was.

11 Q. And how were you listening? Headphones? your phone?

12 A. No. There's a way to transmit it through my phone. I was able
13 to listen to it.

14 Q. Okay. Did you help to select some of the recordings to be
15 played during the trial, during this trial?

16 A. I did.

17 Q. How did you review them before testifying today?

18 A. I reviewed them from a thumb drive.

19 Q. Okay. Who gave you that thumb drive?

20 A. The U.S. Attorney's Office.

21 Q. Are you able to identify the thumb drive that you reviewed the
22 recordings from?

23 A. Yes.

24 Q. How?

25 A. I signed it.

1 **MR. NICKEL:** If I can have the ELMO back, please.

2 **THE DEPUTY CLERK:** It's only on the witness.

3 **BY MR. NICKEL:**

4 Q. Do you recognize this, Agent Herman?

5 A. I do.

6 Q. What is it?

7 A. That is the thumb drive and the tag I signed on.

8 Q. Okay. Were the recordings on that thumb drive that you
9 reviewed the same as what you heard live during the consensual
10 recordings?

11 A. Yes.

12 Q. Did you help prepare transcripts?

13 A. Yes, we did.

14 Q. And what's a transcript again?

15 A. A transcript is a verbatim of what was said during the
16 conversation.

17 Q. Were they given to the U.S. Attorney's Office to sync with the
18 audio?

19 A. Yes, they were.

20 **MR. NICKEL:** Judge, at this time I'd like to offer, file,
21 and introduce Government's Exhibits 001-003, 001-005, 001-007,
22 001-009, 001-011, 001-013, 001-015, 001-017, 001-019, 001-021,
23 002-001, 002-003, 002 -005, 002-007, 002-009, 003-003, 003-005,
24 003-007, 003-009, 005-003, 005-005, and 005-007.

25 **THE COURT:** Subject to the previous objections, any other

1 objection?

2 **MR. CLEMONS:** No, Your Honor.

3 **MR. NICKEL:** I believe I missed one, Judge. If we can go
4 back to this portion of the record. 003-011. Thank you.

5 **THE COURT:** Okay. Mr. Clemons? Mr. Johnson?

6 **MR. CLEMONS:** Objection?

7 **THE COURT:** He's offered them.

8 **MR. CLEMONS:** Yeah, I mean, you already said subject to
9 the objection.

10 **THE COURT:** Subject to your prior objections, no further
11 objection?

12 **MR. CLEMONS:** That's correct, Judge.

13 **MR. NICKEL:** I'm not going to publish them all right now,
14 Judge.

15 **MR. CLEMONS:** That's fine.

16 **THE COURT:** I'll admit them.

17 **MR. NICKEL:** Thank you.

18 **BY MR. NICKEL:**

19 Q. Agent Herman, did Mr. Franques ever pay any money to Mr.
20 Haynes?

21 A. Yes, he did.

22 Q. Do you recall how much?

23 A. Two separate instances of \$10,000 checks.

24 Q. Do you recall the dates that the checks were delivered?

25 A. Sure. January 11th of 2022 and February 1st of 2022. And you

1 said Mr. Franques. The checks were actually delivered by Mrs.
2 Franques.

3 Q. I would like to focus on the January 11, 2022, payment. Okay?
4 These payments, were they at the direction of you, the FBI agents?

5 A. Mr. Franques was working with us at the time, yes.

6 Q. Okay. And so was this part of your investigation or your
7 tactics of the investigation?

8 A. Yes. And it was based off of the previous conversations
9 recorded between Mr. Haynes and Mr. Franques.

10 Q. What were those conversations?

11 A. Those were conversations related to -- keep in mind that Dusty
12 was arrested on state charges in St. Martin Parish on December 10th
13 of 2021. So Dusty, he's out of Baton Rouge DA's office. He's on
14 -- I guess the best way to say it is he's on leave from the
15 Lafayette office.

16 **MR. CLEMONS:** Judge, I'm going to object. He's not
17 responding to a very basic question. Your Honor, he's going into a
18 narrative.

19 **THE COURT:** Rephrase the question and we'll start the
20 answer over again.

21 **MR. NICKEL:** Sure.

22 **BY MR. NICKEL:**

23 Q. Was Mr. and Mrs. Franques cooperating at the time Mr. Guidry
24 was arrested?

25 A. Yes.

1 Q. Did you learn through the course of your investigation that Mr.
2 Haynes was to get paid by the Franqueses?

3 A. Yes.

4 Q. As part of an arrangement?

5 A. Yes.

6 Q. Did you set up delivery of checks from the Franqueses or
7 coordinate it from the Franqueses to Mr. Haynes?

8 A. Yes. I don't want to say I coordinated them. They were kind
9 of self-coordinated, but we essentially talked to the Franqueses
10 about it.

11 Q. Describe what you mean by self-coordinated.

12 A. Between the discussions had between Mr. Franques and Mr.
13 Haynes, some monies were going to be paid to Mr. Haynes. So it
14 wasn't like we were in there telling them to...

15 Q. I would like to focus on the January 11, 2022, payment. Were
16 there any text message that you found from Mr. Haynes' phone
17 concerning that meeting? Well, who did he get the checks from that
18 day?

19 A. He picked it up from Michelle Franques, Mrs. Franques.

20 Q. Were there any text message you found from Mr. Haynes
21 concerning the meeting with Mrs. Michelle Franques?

22 A. Yes.

23 Q. Would you recognize those text message if I showed them to you?

24 A. Yes.

25 **MR. NICKEL:** If we can show just this witness

1 Government's Exhibit 48.

2 **BY MR. NICKEL:**

3 Q. What is this, Agent Herman?

4 A. Those are the text message found on Mr. Haynes' phone between
5 himself and Ms. Michelle Franques.

6 Q. They're from Mr. Haynes' phone?

7 A. Yes.

8 Q. Have the messages been altered, in any way, since they were
9 initially dumped off of Mr. Haynes' phone?

10 A. No, just put into this format that's easier to read.

11 **MR. NICKEL:** Judge, I'd like to offer, file, and
12 introduce Government's Exhibit 48.

13 **MR. CLEMONS:** No objection.

14 **THE COURT:** Without objection, let it be entered.

15 **MR. NICKEL:** And published, please.

16 **THE COURT:** All right.

17 **BY MR. NICKEL:**

18 Q. Same routine with the previous text message that we reviewed.
19 Who is on the right-hand side?

20 A. The right-hand side is going to be Gary Haynes.

21 Q. And the left-hand side?

22 A. Michelle Franques.

23 Q. Can you just walk us through these really quickly?

24 A. Sure. So the first message from Mr. Haynes comes in January
25 11, 2022, at 8:59 a.m. [As read] "Hi, Michelle. I'm leaving the

1 hospital now headed in your direction in Oil Center. Is that okay?
2 I can come by after lunch, also. I'm only going home to sleep a
3 while before going to the office. Later around 1 or 1:30 is great,
4 too. I can just go home and sleep a while."

5 Michelle responds, "No. Perfect. I am here."

6 Mr. Haynes responds, "Ok. I'll come by before I go
7 home."

8 Michelle, she liked, "Ok. I'll come by before I go
9 home."

10 Mr. Haynes responded, "I'm leaving hospital in 10-15
11 minutes." Then "Lourdes."

12 Michelle replied, "Text me when drive up and I can bring
13 it out to you."

14 Mr. Haynes responds, "Ok. TY," which I believe means
15 thank you. Then, "I'm here. White truck." And that last message
16 was at 9:48 a.m.

17 Q. On January 11th?

18 A. On January 11th.

19 Q. Were you conducting surveillance that day?

20 A. We were. We knew this payment was coming.

21 Q. Did anyone on your surveillance team take pictures that day?

22 A. Yes.

23 Q. Have you seen those pictures?

24 A. I have.

25 **MR. NICKEL:** I would like to show this witness only

1 Government's Exhibit 49. And there's two. If we could blow up
2 page 1 and then go to page 2, please.

3 **BY MR. NICKEL:**

4 Q. Do you recognize these photos, Agent Herman?

5 A. I do.

6 Q. Do they show the surveillance operation as you remember it that
7 day?

8 A. Yes.

9 **MR. NICKEL:** Judge, I'd like to offer, file, and
10 introduce Government's Exhibit 49.

11 **MR. CLEMONS:** No objection, Judge.

12 **THE COURT:** Without objection, let it be entered.

13 **MR. NICKEL:** And published. If we can go back to Picture
14 1, please.

15 **BY MR. NICKEL:**

16 Q. What are we looking at right here, Agent Herman?

17 A. So that's the business, I guess plaza or block on Oil Center
18 Drive or Oil Center Boulevard that -- I forget which one it is --
19 that Midway Media is located, 201 Oil Center. That's Mr. Haynes'
20 truck all the way on the far -- us looking at it, to the left, the
21 white Ford Platinum that continually confuses as a King Ranch. And
22 if you look, you can see Michelle's feet. She's at the driver's
23 side door.

24 **MR. NICKEL:** Can you blow up those feet if you can find
25 them? There you go.

1 **BY MR. NICKEL:**

2 Q. Standing at Mr. Haynes' door?

3 A. Yes.

4 Q. Okay. All right. If we could go to the second page of
5 Government's Exhibit 49. What is this, Agent Herman?

6 A. So we followed Mr. Haynes from Oil Center, and he went directly
7 -- that's Mr. Haynes' residence. And we watched him park in his
8 garage.

9 Q. Okay. Did Mr. Haynes ever acknowledge that he received the
10 check?

11 A. Yes.

12 Q. When?

13 A. That was -- the next night in the recorded meeting with Dusty
14 Guidry and Leonard Franques.

15 Q. And one more time, let me ask you this: What is Mr. Guidry's
16 wife's name?

17 A. Lauren.

18 **MR. NICKEL:** If we could publish 001-003.

19 **THE WITNESS:** I should preface that with that it's his
20 ex-wife now. At the time, Lauren.

21 **MR. NICKEL:** Can we turn the volume up?

22 **BY MR. NICKEL:**

23 Q. And before we play it, can you just familiarize the jury with
24 who the individuals in this picture are?

25 A. Sure. Looking at it to your left, the gentleman with the ball

1 cap on and the camouflage shirt, that's Leonard Franques. On the
2 right side directly across from Mr. Franques, with the long-sleeve,
3 blue shirt, that's Dusty Guidry. And then directly facing the
4 camera, that's Mr. Gary Haynes.

5 **MR. NICKEL:** If we can play it from the beginning.

6 (Video playing.)

7 **MR. NICKEL:** If we can play 001-005.

8 (Video playing.)

9 **BY MR. NICKEL:**

10 Q. What is F1, Agent Herman?

11 A. So F1 in this context, I'm pretty sure they were referring to
12 F4.

13 Q. What is F4?

14 A. F4 is one of -- Mr. Franques and Michelle Franques had a bunch
15 of companies. F4 was what they refer to as a holding company.
16 It's one of their business entities where, when this started, the
17 checks that Mr. Haynes gave were to F4 and then the checks to MD at
18 Law that were paid on January 11th were from F4.

19 Q. Was there another payment to Mr. Haynes from the Franqueses?

20 A. Yes, on February 1st.

21 Q. Can you tell us about that instance?

22 A. So that instance happened all of a sudden. Mr. Franq-- I'm
23 sorry. Mr. Haynes went to Mr. Franques' residence and then to the
24 Midway Media location in the Oil Center where he got the check from
25 Michelle.

1 Q. Were there any text message that you found between Mr. Haynes
2 and Ms. Michelle Franques concerning the delivery of that check?

3 A. Yes, on Mr. Haynes' phone.

4 Q. Did you save them as part of your investigation?

5 A. Yes.

6 Q. Would you recognize them if I showed them to you?

7 A. I hope so.

8 **MR. NICKEL:** Let's show this witness only Government's
9 Exhibit 50.

10 **BY MR. NICKEL:**

11 Q. Do you recognize this, Agent Herman?

12 A. Yes, I do.

13 Q. These are text message from Mr. Haynes' phone?

14 A. Yes.

15 Q. Have the messages been altered in any way?

16 A. No, just put into this more readable format.

17 **MR. NICKEL:** Judge, I'd like to offer, file, and
18 introduce Government's Exhibit 50.

19 **MR. CLEMONS:** No objection, Judge.

20 **THE COURT:** Without objection, let it be entered.

21 **MR. NICKEL:** And published.

22 **BY MR. NICKEL:**

23 Q. The date of this text message exchange?

24 A. February 1, 2022. The first one's at 10 a.m.

25 Q. Can you just go through these text message for us?

1 A. Sure. Mr. Haynes [as read]: "Y'all in town today?" We are
2 soon having a meeting with PTI and I need to know some information,
3 reevaluations, et cetera. Who was doing them now, et cetera?"

4 Ms. Michelle replies, "Yes, we are here. You can call me
5 or I can meet you."

6 Mr. Haynes: "Are you at the office?"

7 And Michelle: "Yes."

8 Mr. Haynes: "K."

9 Q. Did you ever confirm from the recordings that Mr. Haynes
10 received the check?

11 A. Yes.

12 Q. Was there a meeting between Mr. Haynes and Mr. Franques at
13 Jason's Deli?

14 A. Yes, two days after this.

15 **MR. NICKEL:** If we could publish 003-003.

16 (Audio recording playing.)

17 **BY MR. NICKEL:**

18 Q. During that call, does Mr. Haynes acknowledge that he received
19 the check?

20 A. Yes. It wasn't a call. It was a face-to-face.

21 Q. Sorry. But did he ever cash those checks?

22 A. No, or deposit them. Now, he didn't.

23 Q. Does he say that he is holding onto them during this call?

24 A. Yes.

25 Q. Recording, sorry. It's getting late.

1 Were the pictures taken -- were there pictures taken of
2 checks that were written to Mr. Haynes from Mr. Franques?

3 A. Yes.

4 Q. Did you save them as part of your investigation?

5 A. Yes.

6 **MR. NICKEL:** I would like to show just this witness only
7 Government's Exhibit 21.

8 **BY MR. NICKEL:**

9 Q. Do you recognize this, Agent Herman?

10 A. I do.

11 Q. If we go to the second page of this, do you recognize this?

12 A. Yes.

13 Q. What are these?

14 A. So the first one you showed was the check that was delivered on
15 January 11th. This second was the check that was delivered on
16 February 1st.

17 Q. How did you acquire these pictures?

18 A. The first one, I was with them and they had it, so I think I
19 took a picture of it. The second one Mr. Franques sent to me.

20 Q. Have they been altered, in any way, since they were sent to you
21 or collected by you?

22 A. No.

23 **MR. NICKEL:** Judge, I would like to offer, file,
24 introduce Government's Exhibit 21.

25 **MR. CLEMONS:** No objection.

1 **THE COURT:** These pictures were both taken before they
2 were allegedly given to Mr. Haynes; correct?

3 **THE WITNESS:** Yes, sir.

4 **THE COURT:** All right. I'll admit them.

5 **MR. NICKEL:** And publish.

6 **BY MR. NICKEL:**

7 Q. All right. First picture, this was how many days before the
8 first delivery of the check, I guess? Or dated when?

9 A. It's dated January 5th. The check wasn't delivered until the
10 11th.

11 Q. F4 is a company you mentioned earlier; correct?

12 A. Correct. And that address that's below the F4, that's the
13 Franqueses' home address.

14 Q. And so F4 is affiliated with Franques?

15 A. Correct.

16 Q. And the second page of this exhibit. When was this check
17 written?

18 A. February 1st.

19 Q. In fact, when was it delivered? Do you know?

20 A. Same day.

21 Q. From the same company?

22 A. Yes, sir. F4, LLC, to MD at Law, LLC.

23 Q. Agent Herman, did you conduct a search warrant on Mr. Guidry's
24 phone, as well?

25 A. Yes.

1 Q. Did you see text message to and from Mr. Haynes on Mr. Guidry's
2 phone?

3 A. Yes.

4 Q. Did you see text message to and from Mr. Guidry on Mr. Haynes'
5 phone?

6 A. Yes.

7 Q. Did you notice anything inconsistent when you compared the two?

8 A. Yes.

9 Q. What is that?

10 A. They were both deleting messages from each other but not the
11 same messages. Does that make sense?

12 Q. Can you explain that?

13 A. Sure. Without being too long-winded, if you obtain two cell
14 phones from two people that you know communicate with each other,
15 the text message from each individual should be the same. The only
16 difference would be who is listed as to and who is listed that it's
17 from. When reviewing the messages that -- from Mr. Guidry's phone
18 to Mr. Haynes, you can see that there was a difference in the
19 messages from Mr. Haynes to Mr. Guidry.

20 **MR. CLEMONS:** Your Honor, I'm going to object at this
21 time. There is no qualifications in being the expert on telephone
22 forensics, Judge. So at this time we don't think they laid the
23 proper foundation for him to be going on about allegedly deleting
24 some text messages just by looking at two different phones from a
25 conversation.

1 **THE COURT:** I think you can rephrase it in terms of his
2 observations about his viewing the two phones.

3 **MR. NICKEL:** Sure.

4 **BY MR. NICKEL:**

5 Q. Were there text message from Mr. Haynes to Mr. Guidry that had
6 been deleted off --

7 **MR. CLEMONS:** Objection, Judge. He doesn't know that
8 they'd been deleted just because they not on the phone. You just
9 told him.

10 **THE COURT:** Right.

11 **BY MR. NICKEL:**

12 Q. Did you see text message on one phone that weren't on the
13 other?

14 A. Yes.

15 Q. And were they from the other respective party, Mr. Haynes, if
16 it was on Mr. Guidry's phone?

17 A. Yes.

18 Q. So did you accumulate evidence that they both deleted texts
19 from each other?

20 **MR. CLEMONS:** Judge, you've made it clear that all he can
21 do is say what he saw from one phone to the next. He doesn't have
22 any evidence of a --

23 **THE COURT:** Mr. Clemons is right. I think you have to
24 ask some foundational questions if he knows if they were deleted or
25 not or if maybe there is some other glitch.

1 **MR. NICKEL:** Sure, sure.

2 **BY MR. NICKEL:**

3 Q. Were there text message on Mr. Guidry's phone between him and
4 Mr. Haynes?

5 A. Yes.

6 Q. Were there text message on Mr. Haynes' phone between Mr. Haynes
7 and Mr. Guidry?

8 A. Yes.

9 Q. Were there some text message different on each phone?

10 A. Yes.

11 Q. Okay. Agent Herman, do you see Mr. Haynes in court today?

12 A. I do.

13 Q. Can you describe what he is wearing and where he is sitting?

14 A. Sure. He is sitting at the defense table next to Mr. Clemons,
15 a white shirt, looks like a blue jacket and tie.

16 **MR. NICKEL:** Judge, I would like the record to reflect
17 proper in-court identification.

18 **THE COURT:** So reflected.

19 **MR. NICKEL:** If you can give me on second, Judge.
20 Nothing further, Judge. Thank you.

21 **THE COURT:** Okay.

22 **MR. CLEMONS:** Your Honor, may we approach?

23 **THE COURT:** Yes.

24 (Begin bench conference.)

25 **MR. CLEMONS:** Judge, considering the hour, I'm just going

1 to request that we go ahead and break for the day, considering we
2 have been going at it nonstop since 8:00. And I'd just request
3 that we can break now and come back in the morning and resume. I
4 think that would make the cross-examination more efficient, even
5 shorter, Judge, as opposed to trying to do right now.

6 **THE COURT:** About how long do you think you're going to
7 go?

8 **MR. CLEMONS:** That's my point, Judge. I'm thinking a
9 couple of hours, but I think I can pare it down. I'm very tired,
10 Judge. That's my point. That's why I request we just do it in the
11 morning.

12 **THE COURT:** Let me ask the jury. I'm okay with that. We
13 will have to start at about 9:30 tomorrow because there's something
14 I have.

15 **MR. CLEMONS:** Judge, you can't threaten me with a good
16 time. 9:30, Lord, that's going to feel like I can sleep all night.

17 (End bench conference.)

18 **THE COURT:** Ladies and gentlemen of the jury, the
19 attorneys have suggested maybe we adjourn for today and start
20 cross-examination tomorrow, unless we want to go further today.
21 I'm going to ask your opinion. Any objection to that? I do want
22 to be -- you've had enough for today?

23 We will reconvene tomorrow. I have something to do in
24 the morning. But if you are just here by about 9:15, we'll start
25 right after that. All rise for the jury.

1 (Jury not present.)

2 **THE COURT:** Please be seated. Anything else we need to
3 discuss outside the presence of the jury before tomorrow morning?

4 **MR. WALKER:** I don't have anything, Your Honor.

5 **THE COURT:** Mr. Clemons, are there any other portions of
6 recordings that you intend to try to introduce through Mr. Herman
7 in the morning that we need to figure out beforehand?

8 **MR. CLEMONS:** No, not that I intend to introduce, Judge,
9 in the morning, no, sir. You mean during my cross-examination?

10 **THE COURT:** Correct. Rule 106-type things.

11 **MR. CLEMONS:** No, sir.

12 **THE COURT:** All right. Agent Herman, you remain under
13 oath. Please don't discuss the case and your testimony with
14 counsel during the break until tomorrow morning. Thank you. You
15 may step down.

16 Court will be in recess until 9:30 tomorrow morning.

17 (Whereupon the proceedings recessed at 4:16 p.m.)

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REPORTER'S CERTIFICATE

I, Beth Delatte, Registered Professional Reporter, Certified Court Reporter in and for the State of Louisiana, Official Court Reporter for the United States District Court, Western District of Louisiana, do hereby certify that the foregoing is a true and correct transcript, to the best of my ability and understanding, from the record of the proceedings in the above-entitled and numbered matter.

/s/Beth Delatte

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