SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY

SALINAS DIVISION

HON. JENNIFER J. O'KEEFE, JUDGE DEPARTMENT 4

CERTIFIED COPY

PEOPLE OF THE STATE OF CALIFORNIA,
Plaintiff,
vs. Case No. 22CR003712
PAUL FLORES,
Defendant.

REPORTER'S TRANSCRIPT OF PROCEEDINGS

CLOSING ARGUMENTS - PAUL FLORES CASE

October 3, 2022

APPEARANCES:

For the People: DAN DOW, DISTRICT ATTORNEY
COUNTY OF SAN LUIS OBISPO
BY: CHRISTOPHER PEUVRELLE
DEPUTY DISTRICT ATTORNEY

For the Defendant
Paul Flores: ROBERT M. SANGER
ATTORNEY AT LAW

STEFANI CORTOPASSI, C.S.R. 11993, Official Reporter

SALINAS, CALIFORNIA OCTOBER 3, 2022

PROCEEDINGS

THE COURT: Are the People prepared to give your closing argument at this time?

MR. PEUVRELLE: Yes, your Honor. Good morning.

(The jury and alternate jurors respond, "Good morning.)

MR. PEUVRELLE: You have been a patient and attentive jury. I know everyone in here appreciates that.

It's been a long trial. It's been 11 Sundays since I gave my opening statement. 11. And it's been 1,370 since Stan and Denise Smart for that phone call -- waited for that phone call from Kristin, the phone call that would never come. 1,370 Sundays that they have been searching for their daughter. In fact, that the whole community has been searching for their daughter. But now you know where she was all along. She was under their deck.

The community really moved heaven and earth to try and find her but Ruben and Paul Flores, they moved the dirt under their deck, twice, to hide her. They treated her burial with less reverence than a family pet.

Justice delayed does not have to be justice denied. You now know the truth as to what happened. The truth is out.

The Smart family kept searching and searching

and what did they do? Ruben Flores accumulated trophies of Kristin Smart that he kept in his bedside table and Paul Flores kept raping women.

The truth is Kristin Smart is dead. She was plucked off the face of the earth by Paul Flores, never to be seen again. There's no question she's dead. And the evidence is clear she was murdered.

Now, of course, there's no video cameras in Paul Flores' dorm room. This is 1996. But crimes that happened in the bedroom, there are no witnesses to those crimes, just like there are no witnesses to what Paul Flores did to Sarah Doe and no witnesses to what Paul Flores did to Ronda Doe.

But ground penetrating radar, a 30-year forensic archaeologist, and a 20-year lab -- accredited lab supervisor tell us what Kristin could not, that she was murdered and buried. Sarah Doe and Ronda Doe tell us what Kristin could not, that she was raped or that Paul Flores tried to rape her. And they speak for Kristin.

Now, we don't have a full, intact body in this case but we have her blood and now all Stan and Denise Smart have to bury their daughter are a couple grains of bloody sand.

Now, when we started this case we talked about voir dire. Everyone remember some of the legal topics we talked about? Yeah.

We talked about you can only consider the

evidence presented; right? And I think I even gave the example would you want to be here two years while you heard from everybody who had something to do with the case so --

MR. SANGER: Objection. Improper argument to refer to voir dire.

THE COURT: Overruled. You may continue.

MR. PEUVRELLE: You have everything you need in evidence to render a truthful verdict in this case that Paul Flores is guilty of murder.

We talked about one witness is enough to prove any fact if you believe them.

We know Kristin Smart is dead. She would never leave her backpack, she would never leave her makeup bag, and she would never leave her cherished family.

Remember that phone call, that message she left for her mom. She was excited to share news with her and she was going to share it with her on Sunday. She made plans with Margarita Campos to study that next day.

Hundreds of volunteers searched everywhere. These defendants did not lift one finger because they knew right where she was. They did not want to help people find her.

They spoke every single Sunday with their daughter. Every single Sunday until that one, 1,370 years ago -- or Sundays ago. They would never miss a single birthday.

Lindsey testified that Kristin was their

biggest cheerleader and was a mini-mom to her. She was close to her siblings and would never leave them.

And Matt Smart testified how she would be there at swim meets to be the first one when he was out of the pool to cheer him on. She gave him an IOU about the future, about being there for him, about always being his mini-mom.

And one of those small, poignant moments that we get in trial was Iggy the Iguana. And who could forget Iggy the Iguana who gave Kristin so much joy?

She had everything to live for, plans for the future that were snuffed out. And while she planned for the future, Paul Flores hunted her around campus.

Steve Fleming was Kristin's good friend. Remember Mr. Fleming, the basketball player, who broke down emotionally at the thought of failing his friend?

He said they got to know each other at what was called WOW week in Cal Poly, or Week of Welcome. It's August, it's early part of the school year where folks get to know each other. And as the basketball season kicked off they didn't spend as much time together but then, as it ended around March, they started becoming close again.

And he told you that he would see Paul Flores randomly in the halls, in Muir Hall, in his dorm, in Kristin's dorm. He had no business being there. He said he saw him in the common area late at night, with no business being there other than to hunt.

And Mr. Fleming testified he clearly remembers seeing Paul Flores in Kristin's dorm room at least one time and she was uncomfortable and the presence of Paul Flores was not wanted, and he never saw Kristin give Paul Flores that attention back because she was too nice.

And you heard Margarita Campos talk about that as well as she was just too nice to tell him off. And what we see as being a nice human being Paul Flores saw as being a bitch dick tease.

And Mr. Fleming never saw Paul Flores back in Muir Hall once Kristin went missing. And that might be the biggest takeaway from Mr. Fleming's testimony is that once Kristin was gone, Paul Flores had no reason to go back because his hunt was over.

You heard from Vanessa Brinley, who was another one of Kristin's friends, along with Ms. Campos, and she told you that Kristin always told her friends when she was leaving town, always.

And she said Paul Flores had always been interested in Kristin. She said, We would go around and Paul Flores would stare at her and it made them very uncomfortable, always gawking and staring and giving them the creepy vibe. And even once Paul Flores tried to come up to Kristin at a party and she never reciprocated any interest in him, a multi-month hunt of Kristin Smart.

Now, there's some moments of truth in this

case. Everyone remember Karen Hall and her home video she shot of that graduation party? I'm not going to show it again because I feel confident you remember it but as she inartfully, not delicately, tells him, What did you do with that girl? He says, Nothing, and holds his head in shame, looks down. And what did she say from the stand? She said, "He never spoke to me again."

And that's fundamentally different than somebody from law enforcement confronting you, because if somebody confronts you like that, before the attention kicks up that you're the last one to be seen with her, would you behave that way? Not you but would somebody behave that way? Absolutely not. You would say, I did not kill her. But if you noticed, you never heard Paul Flores say that this entire case.

Everyone remember the wire conversation that Detective Smith talked about? Everyone remember it? I'm not going to play it again for you because I trust you can remember it, where Paul Flores is listening to his mom, Susan Flores, talking to him and she talks about all the attorneys they have lined up and how he has to poke holes in the podcast. And then she says, "Maybe you can't."

Now, if someone's mother tells them, Maybe you can't poke holes in the podcast, that you murdered Kristin, the response would be, There are no holes to poke in because I did not kill Kristin Smart. But he didn't say that, did he?

And you heard her Honor instruct on the law as to the adoptive admission, when somebody says something to you that you would expect a firm denial and you don't get it, and you can consider that as evidence that the defendant is aware of his guilt.

Ruben Flores admitting he committed a felony, everyone remember that, with J.T.? I'm not going to play it again for you. Well, you might be thinking to yourself, Why is this important to us? We are the jury for Paul Flores. Well, Ruben Flores cannot commit a felony without Paul Flores committing a felony. So when Ruben says, I didn't commit no -- they didn't commit no felony, only me, in a matter of fact, agreeing kind of way, he's telling you, in his own voice, on a recording, that Paul Flores committed a felony and that he helped him by burying Kristin Smart and hiding her body.

And, buried under his ramp at his place in Huasna, in his -- as I said earlier, what we would see as kindness he would see as somebody being a dick tease and in his predatory, vile, rapist mind that's what he saw her as, which is exactly what he told Jennifer Hudson.

And he told her, she said, either buried or put under. Well, where was she? She was buried or put under. Put under what? The ramp. You mean the incline that was underneath the deck? At his place. And what was his place? 710 White Court. And where have you heard Huasna is? It's the rural area right next to

Arroyo Grande.

So I put together this quick timeline of the Crandall Way party. You do not get my PowerPoint in deliberations. If you see something you think is helpful, feel free to write it down, but you're not going to get any of this.

Margarita Campos testified she dropped Kristin off around 10:30 at night and Kristin was sober at that time, gave her a key to the dorms, and all Kristin had were the clothes on her back. And she never heard from Kristin again. She told you none of Kristin's friends went to the party with her, there was no buddy system in place, Kristin was on her own. She was already vulnerable just from that, before Paul Flores got ahold of her.

Ms. Campos had to suffer the indignity of the Defense going through her personal social media. Everyone remember that? And Ms. Campos said, I am here to give a voice to the voiceless so other women will know that somebody will stand up for them. Ms. Campos, we've heard you loud and clear.

Kendra Koed testified that sometime before 10:30 Paul Flores forced himself on her. She was asking for gum and he said, Come on. Come on to the back. Let's go out to the side yard, I'll give you gum. Well, why was he trying to get her out there? He's trying to separate her from other people. See a pattern? And she's able to fight him off.

But it tells you what his mindset is that night. It tells you about his predatory mindset, that he is going to do whatever he can to hunt that night.

And she even testified she cautioned Kristin to stay away from him.

And Trevor Boelter testified that he got there right after 10:30, and something weird happened right after 10:30. He said Kristin pulled him into the bathroom and started looking in the mirror. And right before then she kissed him and he said, I remember there was no odor of alcohol. Everyone remember that? Right after Ms. Campos testified she dropped her off sober around 10:30.

They leave that bathroom and who comes right up to them but Paul Flores, wanted to know what business Trevor Boelter had with Kristin Smart, because he had been hunting her.

And after that Matt Toomey testified that Paul Flores came up to him and started talking to him about Kristin because Toomey and Kristin had just had a conversation. And he testified that Paul Flores said, She's hot, or, She's good looking, something like that, because he was hunting her.

And then after that Paul Flores gets his chance. Multiple witnesses see Paul Flores and Kristin Smart talking near the bar. Tim Davis and Ross Ketcham. He finally had her to himself, there's no buddy system in place, and she falls down and everybody helps her

back up.

And then after Paul had him (sic) to himself, right before midnight, Trevor Boelter sees her again -- and Kendra Koed sees Kristin actually spilling a drink. But Trevor Boelter sees her again just before midnight and he described Kristin as willowy, out of it, and spacey, right after Paul Flores got control of her. And he said they shared a -- I think he termed it a "sloppy kiss," and he said he didn't remember any odor of alcohol then either.

By midnight, 90 minutes after arriving sober at the party, Kristin was incapacitated, facedown on the neighbor's lawn, I think the testimony was five to six inches of grass. And Matt Toomey actually came to check on her and he tried to get her to leave. She said, Just leave me be, just leave me here. Incapacitated, for two hours, which tells you the degree to which she was incapacitated.

Now, sometime between 2:00 and 2:30 a.m., you heard from Eric Wilkins and Tim Davis. Eric Wilkins testified that Kristin was incoherent and not responding normally to the questions that he was asking her. She wasn't making sense because she was incapacitated, because she was in no condition to give consent, as anybody who saw her could see.

And Tim Davis confirms. She tried to say, Leave me here and he said, No, you got to go. And he takes the extra step of actually lifting her up and he

said she kind of draped her arms on him and, supporting her weight, they started to walk. And he said she could not walk on her own. Everyone remember that? Uh-huh.

He sees Paul Flores come out of the darkness. Remember, later you learn that Paul Flores had called his sister just before leaving that Friday night. So if Kristin's incapacitated from midnight until 2:00, what is Paul Flores still doing at that party, other than waiting for his chance to get her? You saw the phone records. He called his sister, he was going to his sister's house, but he stuck around because he saw she was alone and vulnerable.

Paul Flores inserted himself into Tim Davis and Cheryl Anderson's efforts to get Kristin home safely, said, Don't worry, I'll take her back to her dorm room. He's uninvited. Why else would he insert himself into that group unless he had targeted Kristin because she was vulnerable and saw his chance after months of hunting?

Now, after about a hundred yards they pass by the health center and Tim Davis gives Kristin to Paul Flores. And Cheryl Anderson told you that Kristin couldn't walk on her own and that she saw Paul Flores was carrying her and he even stopped to hug her, and never once asked Kristin where she lived or asked them where did Kristin live. One, because he knew; and, two, because it didn't matter because he knew exactly where he was taking her. Tim Davis said she leaned up against

Paul Flores and could barely walk, but Cheryl Anderson confirmed and she said Kristin Smart never hugged him back.

And then another moment of truth. What did Paul Flores tell Cheryl Anderson? Go. I got this. I got her. You don't need to be here anymore. And she said, No, I think I'll stay a bit. And, again, he tells her, You can leave. I got this. I got Kristin. And he promises to get Kristin to her dorm room, a promise that he breaks.

Now, as they get to the corner of Perimeter and Grand Paul Flores tries to kiss and hug Cheryl Anderson but she refuses. One more step of intent telling you what his intentions were that night. And Ms. Anderson, the last person to see Kristin Smart alive.

And the hunt continued. And we'll talk about the dogs in a bit but the hunt culminated with four dogs finding the scent of human death on his mattress. Now, what would he want to be doing with Kristin Smart on his mattress? Exactly what he did to Sarah Doe and Ronda Doe.

Kristin was incapacitated in this location. And you can tell she was incapacitated because the location is slanted and it's in between houses and in between a driveway. Somebody with their wits about them would not choose to go to sleep in this location. She was completely helpless and defenseless. Why else would she be in this location?

But this location is visible. Visible to where Tim Davis saw Paul Flores coming out. Visible from the street. Visible to anybody who was there such that you heard multiple people say, We saw her incapacitated. That tells you how visible she was to anybody who was outside.

And here's the map drawn by Paul Flores where he claims he left Kristin Smart, despite promising seconds earlier to get her to her dorm room.

You heard from J.T. Camp, this walk is about 20 minutes uphill. It's not an easy walk. It takes some motivation. And Paul Flores had motivation to walk Kristin up this hill to separate her from anybody who could help her.

And from that location where he claims he saw her walk away just fine, you heard from J.T. Camp almost two football fields to her actual dorm room, two football fields, a claim so clearly false, so clearly a lie, so clearly impossible. And the only reason to lie about that is because he took her back to his dorm room to try and rape an intoxicated woman.

So this is Exhibit 414-B. It's the one that I used to try and have one central location. I'm sorry I'm moving a lot but I'm trying to give people lines of sight. One central location where you could go to look at the names of the dorms, some of the distances, and a lot of the critical information. So if you feel you need to reference that, that's Exhibit 414-B.

And as you'll see from these interviews -- I'm not going to play them for you again because you heard them once, but I would strongly encourage you to re-listen to his audio interview with Detective Kennedy and his video interview with Investigator Hanley so you can see -- hear the tone in his voice on that audio and see his body language if you need to again and the way, when critical questions are asked by the detectives, he stumbles all over himself and stutters and can't make sense of the situation or changes the subject immediately.

Kristin's makeup bag and backpack were untouched. They were in the exact same spot as when she left them. And her friends told you that she never went anywhere without these two items overnight. That's what Crystal Calvin told you. Crystal Calvin was Kristin's roommate at John Muir dorms.

Jana Schrock spent the night in Kristin's dorm room. She said her friend, Ted Munley, came in and spent the night and she never heard anything from Kristin. So you know Kristin never made it home. You know that. And when she woke up, all of Kristin's stuff was in the same spot. And she remembered that because she said her bed -- Kristin's bed was a little messy and that stood out to her and she noticed that. She said when she woke up she was like, Oh, it's still messy, she never came back, to the point where Kristin's friends became more and more alarmed.

And you heard from her friend, Jennifer Phipps, who took charge in the dorms to say, This is not right, this is not Kristin, we know something's wrong. Everyone remember that? And she led the charge to call police, to try and get somebody to do something about this. She got the runaround on Sunday and then finally somebody came out on Monday. By Tuesday, when Kristin wasn't in classes, that's when Officer Cudworth finally came and talked to the women who lived in that dorm.

You saw the dorm records from Santa Lucia, number 128, the dorm records shown by Derrick Tse and Paul Flores. As you can see in yellow highlight, on May 24th is a four-second call to his sister Ermelinda, who, if you remember, lived just a mile away, within walking distance, and, as you heard from later testimony, had multiple vehicles available to her at that property one mile away, and then nothing until Sunday morning.

And why do I emphasize "nothing"? What don't you see in these phone records? You don't see a 9-1-1 call, do you? No. For the help that Paul Flores needed he called Ruben Flores, 9:47 on Sunday morning.

And, remember, Derrick Tse, his roommate, said, I told Paul I had -- I was going to be gone in Oakland until Tuesday night. Paul Flores knew he had four full days -- Saturday, Sunday, Monday, Tuesday -- to do what he needed to do. And everyone testified Cal Poly was quiet this weekend. There was nobody in there.

And then the next phone call that you see is a

seven-minute phone call to Ruben Flores on Tuesday, May 28th, 1996. See how it's the same number as the Sunday morning phone call? What happened Tuesday night? Detective Kennedy interviewed him in his dorm room and the first thing Paul Flores did is call Ruben Flores.

And then what did he do after that? See the next number, the green highlight? 38-second call, again to his sister Ermelinda. After no other calls he just happens to call them right after Detective Kennedy is sitting in his dorm room, interviewing him? That tells you he's guilty as sin because actions speak louder than words.

Now, this is the dorm room. Again, the pictures aren't the best but this is 1996; right? You actually had to click and take one picture at a time. You couldn't look at it on your cell phone to make sure it was a good picture so you're stuck with what you get. It was a different era with different technology.

And you can see the truck pulled right up to the window of number 128, the desk right there. And from the testimony of Detective Camp you can see that 128 is the third window from the exit. It's right there. You can see the exit on the right-hand side. And you can also see that the window folds up for easy access to anybody who comes in behind that dorm room.

So as we'll talk about when we get to the law, I don't have to prove how they got her body out of there, that's not required, but I'm showing you this so

that you see they had two options that were doable and doable quite easily.

And how easily? Well, Investigator Camp, hopefully you can see the red ink, went out and measured. And as you can see, that window is about 48 inches high, somewhere roughly four feet; and opens 35 inches, a little less than three feet. You open that up, flip up the screen, no problem, like that; or, you wait until there's nobody around and you go right out that side door in about five seconds.

And, remember, we're not talking about the men you see in court here today, we're talking about 19 year-old Paul Flores, who you actually got to physically see in these videos; and Ruben Flores, five-seven, 165, stocky build. Paul Flores, five-nine, 170, of stocky build. Two of them together could easily move a young woman of 145 pounds.

So, now what about that Sunday? We know about that phone call from Sunday morning. Paul Flores is not accounted for after that phone call until Sunday night with Jeromy Moon; right? But Jeromy Moon puts him in Arroyo Grande and Jeromy Moon says, I saw that bruise on Sunday night when we hung out.

And what did Paul Flores tell him about it? That, I just woke up with it. There is no reason to lie to your best friend about how you got the bruise unless you got it during the murder of Kristin Smart and the burying of her body. Again, I don't have to prove to

you how he got the bruise but that's the only reason to lie about it to your best friend.

And if you remember, during his interview, the video one with the detectives, he said, Well, I lied because I thought it sounded kind of stupid, which is so ridiculous in the context of a homicide investigation. But even if you believe that, that doesn't explain why he lied to Jeromy Moon, his best friend at the time.

And then we have the crime scene. Four separate dogs alert on Santa Lucia room number 128. And what did they alert on? The mattress.

Now, I included this photograph. If you remember, Wayne Behrens discussed how his dog, I think her name was Sierra but I'm not a hundred percent on that, showed interest outside those windows, which was consistent with the wind blowing the scent down the hill, which tells you that scent can travel when dogs are in odor but don't go to final response of an alert, okay? Which is important when we get to White Court and why those dogs did not alert.

I don't know if you all caught this, but each of the three handlers entered from a separate entrance. One entered from the left side, one from the middle, and the other from the right, a true -- not just double blind, not just blind, a true triple-blind cadaver dog search on the first floor of Santa Lucia.

And these handlers are literally the best of the best. Adela Morris has been doing this for

35 years. She trains the trainers. She led the charge to change the guidelines to make the field better and she told you that everything they did was industry standard in 1996.

And she said her dog Cholla went in -- and I think she said a "fish hook." Down the hall, fish hook, went right to Paul Flores' dorm room. And then once let in, she testified her dog had the strongest alert she had ever seen of human death on Paul Flores' mattress.

She ran Cholla through that entire dorm, not a single other alert or expression of interest or change in behavior by the dog. What are the chances that dog runs by -- with all the human activity going on in a dorm room, runs by every single other dorm room, toilet, shower, common area, and the only place that dog smells and alerts on human death is on the bed of Paul Flores?

And you saw the schematics. I won't put it up for you but on the first floor of Santa Lucia I counted 37 dorm rooms; and on the second floor, 46; and on the third floor, 46. So it's roughly 120 dorm rooms in Santa Lucia that Cholla passed by without batting an eye.

And she took her second dog through, I believe it was Cirque, and had the same results with that second dog.

And Wayne Behrens had the same results with his dogs.

And then they took the mattress out and then

Gail LaRoque's dog came in and alerted inside that same room, but when that dog got to that mattress frame, remember what she said? She said the dog was doing these like head nods up in the air, indicating she was in odor and smelled human death, human decomposition, but couldn't pinpoint the source, because the source had been removed, the mattress; right? So that corroborates the other three dogs having pinpointed that mattress as the primary source of human death.

Another kind of moment in truth in the case, which I pulled out in my opening and which I'll show you again here, is where Paul admits that lying about the bruise where a 19 year-old young woman is missing is a little white lie, a little fib, which is still a lie. And if you're willing to lie about that, what else are you willing to lie about during the course of a homicide investigation?

And he lied so pervasively, so repeatedly about things that were demonstrably not true that the only reason to lie is if you murdered Kristin Smart and buried her body. There's just no other explanation. Same thing with Jeromy Moon. There just isn't.

Now, to run down the bruise. He claimed it was from basketball in his initial interviews but Jeromy Moon confirmed Sunday night and not at basketball. He said there were no injuries while they were playing.

And then he told investigators he got it while removing a truck radio from 10:00 p.m. to 2:00 a.m..

Really? We're supposed to believe that? Four hours to remove a truck radio and you got a bruise removing it? That's less believable than "I woke up with it."

And then he even told Mario Garcia -- everyone remember Mr. Garcia? He said, I was playing pool with him. We played pool quite a bit -- I got it while I was pushed at a party. Now we have, what is that, four or five lies as to this bruise? Again, no reason to lie to Mario Garcia. Just like Jeromy Moon, no reason to lie unless you got it during the killing and burying of Kristin Smart.

So I want to start first with the statements -- or the testimony of Officer Cudworth, who interviewed Paul Flores on May 28th, that Tuesday, at Paul's work at that campus store. Now, he told Cudworth that Kristin was having trouble walking, okay? It's important that he told Cudworth that. Cudworth testified to that. If there's any question you can have that read back, okay?

And he says he told Cheryl Anderson that he would walk Kristin back to his dorm. He told Officer Cudworth, I was not interested in Kristin, which we know is a lie from multiple other witnesses. He told Officer Cudworth, I never asked Cheryl Anderson for a hug or -- I'm sorry, let me back up.

He never told him about asking Cheryl Anderson for a hug or a kiss, so that was omitted. It was in other interviews where he denies it, this one it was omitted. And Cudworth said he didn't notice any

nervousness about him. Remember, this interview occurred at the campus store.

Later that day, Detective Kennedy interviews Paul Flores at his dorm room and Detective Kennedy tells you this time Paul Flores' heart was beating out of his chest. He was very, very nervous. And he even called him on it. He said, Hey, you're really nervous. And Paul Flores claims, another fib, that he was nervous because he had to go clear up a warrant at Arroyo Grande PD. But he tells investigators that warrant was the day before, so there's no need to be nervous about that because he had already cleared it up.

And Officer Cudworth said, I spoke with him earlier that day and he wasn't nervous at all. So if Paul Flores was really nervous about the warrant, don't you think he would be nervous with Officer Cudworth? You darn right he would be.

So why would he be nervous, so nervous heart beating out of his chest, with Detective Kennedy? Well, because on May 28th he was being interviewed in his dorm room, where days prior Kristin Smart's lifeless body sat on his mattress. That's why he was nervous on that time.

Detective Kennedy confirms the bruise on the 28th and he tells Detective Kennedy -- this one is audio recorded so if you want you can listen to the whole thing. I'm giving you the highlights so you don't have to hear it right now.

He claimed he didn't know her and didn't even know her name. Well, if that's true how was he going to get her back to her dorm room? I promise you, Crystal, I'm going to get her back to her dorm room -- or Cheryl. But no, he claims he doesn't know who she is. So that's a lie. Never explained how if he didn't know her, didn't know her name, how he would get her there.

And he claims not to know how he ended up walking with her. So I'm going to play you this clip. And we'll see if it works on the first time.

(Audio recording played but not taken down on the record.)

MR. PEUVRELLE: So that's from his May 30th interview that was recorded. He says, I don't know how we ended up walking together. Well, we know that's a boldfaced lie.

What did Cheryl Anderson say? He just appeared out of nowhere, came right up to us. We know how they ended up walking together because he sought her out, and Tim Davis confirms that. So we know that's a lie.

When asked about, on May 30th, him vomiting when they got back, I don't know if any of you caught this the first time I played it, he said, Well, when did you vomit? And he said, "Right when we got back." "Right when we got back."

(Audio recording played but not taken down on the record.)

MR. PEUVRELLE: So you hear him stuttering,

because this is a big moment, "Right when we got back." Well, when he's referencing "back," it's to where he was vomiting in his dorm room. Who was the only "we" he could be with? Kristin Smart.

Paul Flores claims he saw somebody in the bathroom. Yeah, I saw somebody in there.

(Audio recording played but not taken down on the record.)

MR. PEUVRELLE: So that clip tells you, roommate was at his girlfriend's the entire weekend.

What's important about the fact that he saw somebody in the bathroom? This is Thursday, five days after Kristin Smart was killed. This had just happened. It's not like we're 26 years later. And it's May, it's the end of the school year, so it's just not believable that after a year of living in the dorms you would simply not know one of the people who lived right next to you in the dorms. That's just ridiculous.

And Detective Kennedy even tells him, This is really important. This is really important. Somebody here could exonerate you, as detectives have done for 26 years, trying to turn over every rock. Paul says, Yeah, that would be my alibi. The truth is there is no alibi. That's the truth.

Now, again in that May 30th interview Paul Flores claims there's no physical contact between the two of them at the party, which we know is a lie because multiple witnesses saw him with his arm around her near

the bar, under his control.

He again claims he didn't find Kristin attractive. We know that was a lie.

He tells Detective Kennedy he was not helping her walk home. And why is that important? Remember, I pointed out him saying to Cudworth that she was stumbling? Well, now he realizes that's bad because if she's stumbling you can't -- you can't have sex with people who are too intoxicated to consent. That's common sense. Everybody knows that. You didn't have to hear the Judge instruct it. So he fixes that in his statements; right? Which tells you he knows he's guilty as sin.

(Audio recording played but not taken down on the record.)

MR. PEUVRELLE: Really? "I have no idea how that happened?" First he says it doesn't happen, then he says he had no idea if it happened, and then he claims it was a blackout, for the first time saying there might have been a blackout. Another white lie, another fib. Time and time again, fib after fib after fib, lie after lie after lie.

You heard Cheryl Anderson testify unequivocally, He promised me he would get her home safely, and that video from 1996 corroborates that she testified -- that she said that.

(Audio recording played but not taken down on the record.)

MR. PEUVRELLE: You heard his voice on tape. "She was walking just fine." Only reason to lie about that is try and get away with murder.

(Audio recording played but not taken down on the record.)

MR. PEUVRELLE: So now he's saying she could walk a few miles. Doubling down, tripling down on lie after lie after lie because he's guilty as sin.

And then the most impactful clip is where, in his own words, he admits to lying and that it's no big deal. There's just a 19 year-old young woman who's missing, who's dead somewhere, but in his rapist mind that's no big deal.

(Audio recording played but not taken down on the record.)

MR. PEUVRELLE: So he says, I don't know of any lie that I've told. Oh, wait. Maybe there's this fib, there's this white lie, within the same breath just about.

Now, we already talked about how Jeromy Moon confirmed Paul Flores returned to Arroyo Grande, which is common sense from having called Ruben Flores. He can give us whereabouts for Paul Flores Sunday night when they hung out and for two hours during a basketball game on Monday. After that, Paul Flores remains unaccounted for until that phone call -- I'm sorry, until he speaks with Officer Cudworth on Tuesday, okay? In Arroyo Grande, unaccounted for.

And as for Ruben Flores, he's completely unaccounted for that entire weekend.

Couple more points about Mr. Mario Garcia. He told you that it was either that Wednesday or Thursday after Kristin went missing that he was playing pool with Paul and he said he saw that bruise, and that Paul was wearing his hat slung low and it appeared to him that Paul was trying to cover up that bruise. And while Paul had been friendly in the past, on this occasion, as they discussed the bruise, Paul Flores was on edge and was trying to hide it and sneak around. The only reason for that behavior is if he got that bruise sometime during the murder and burial of Kristin Smart.

And then the TV Guide. Everyone remember the TV Guide discussion with Detective Kennedy? Paul Flores says, I can tell you exactly when I got home because I was watching TV, and, in fact, I can rustle up that TV Guide and tell you exactly what I was watching.

And you heard the clip about the alibi witness and then you heard Detective Kennedy say, By that following Monday I never got a TV Guide, I never got an alibi witness, because Paul Flores has no alibi and because he wasn't watching TV, he was trying to rape and murder Kristin Smart. Otherwise, you're running to the police station, Here's the TV Guide, I was watching whatever was on in 1996. Here it is, right here. I was watching this show. I came back at 2:45 and this show was on. And, oh, by the way, here's John Smith, who

puts me in the dorm at that time. Nothing to see here.

That never happened because the truth is there is no alibi and he wasn't watching TV. No alibi for Sunday morning or afternoon or really Monday after that basketball game and until his interview with Officer Cudworth.

So you heard the testimony of Jennifer Hudson who talked about she was 17, 18 years-old and she was dating Brent Moon at the time. And Brent Moon was a skater. He skateboarded in San Luis Obispo. She said she wasn't but she would go with Brent Moon to skate.

And she said one time they were at this house in San Luis Obispo that was near the railroad tracks and a guy named Red was there, but nobody knew what his real name was, he just had red hair, so they called him Red.

And a commercial came on about Kristin Smart on the radio and Paul Flores said, I was at a party with this bitch dick tease. All she did was lead me on. I finally had enough of her shit so I took care of her, buried her or put her under the ramp at my place in Huasna.

Well, as we talked about, in his mind her kindness he would see as being a dick tease. He had enough of her being kind and telling her no -- him no. She was buried under the ramp at his place near Huasna. And Jennifer Hudson testified she heard "in Huasna," but as we know Paul Flores likes to tell little white lies, little fibs.

Does it really surprise anyone that he would want credit for this murder in a certain community and yet white lie about one fact where you might be able to find her body? Does that really surprise anybody?

He just happens -- she just happens to know if he was at a party; she just happens to know that in his mind she was leading her (sic) on; just happens to know, 26 years before the excavation, that Kristin Smart was buried; and just happens to know that she happens to be buried at his place? She can't know any of that stuff unless it came out of Paul Flores' mouth and is true.

She said his demeanor was serious, with dead eyes. This was a theme in this case, the dead eyes of Paul Flores. Trevor Boelter, when identifying Paul Flores, said, I recognize those eyes. Derrick Tse, his roommate, said, His eyes were cold. And this was when Paul Flores told Derrick Tse that, Kristin's at my mom's house having lunch, dead serious, which corroborates Jennifer Hudson that he is telling people things to get credit for what he did.

And she says she saw him in a green or blue Ford Ranger and as you saw in the picture the Ford Ranger is blue, so she was being honest. She said, I couldn't remember the exact color, it was green or blue, and it was blue.

Now, later in the summer in Huasna she sees him in a white truck and as you saw the Flores family owned a white truck at the time. And she described it as a

4x4. Well, Clint Cole told you he went under that -- the axles to make sure that it was a four-wheel drive. Would it surprise anybody that a young 18 year-old woman might not think to go look under the axle to make sure it's a four-wheel drive?

So that's a reasonable thing for her to say because she doesn't know what it actually is, which makes sense that if someone is driving on this rural country road she's going to assume it's a four-wheel drive, so just because it's not doesn't mean she's wrong.

He asked her to go skinny dipping, which is corroborated by the photographs you saw and testimony of a pond being nearby.

And she held the secret tight until she confided to her best friend, Justin Goodwin, which makes sense and is corroborated by the tip happening in 2004; because if you heard this and you're truly terrified of what you heard, you're going to lock that in, lock that in within you, throw away the key, because you don't want to hear that again, so that makes sense.

And in 2004 Justin Goodwin submits a tip to non-law enforcement, okay? So why do I say that? One, when Jennifer Goodwin told Justin -- or, I'm sorry, when Jennifer Hudson told Justin Goodwin in the tip that Paul Flores killed Kristin Smart and buried her at his place, her best friend at the time, her roommate, who she's been living with, believed her. He believed her. The

person who knew her best believed her, and believed her nearly two decades later when he traveled down from Washington state to go look in Huasna with her. And what's in that tip corroborates what she testified to, Paul Flores killed -- said he killed her and buried her at his place.

One more thing about the non-law enforcement. So cross-examination was made for Justin Goodwin and the reward money. Well, if somebody was really after the reward money, don't you think they'd submit that tip to the sheriff's department instead of not law enforcement? So if this person was really after the reward money and waited 17 years to follow-up on the tip and then didn't go to law enforcement but talked to Chris Lambert, does that make any sense? It makes no sense because it's absurd.

Now, Jennifer Hudson, in 2014, November, talks with Detective Cole. And he testified she said that she vividly remembered the terms "dick tease" and vividly remembers the terms "my place." As we said, his perspective, how would she know that unless he said that.

"His place." 710 White Court is his place. She confirms the house in San Luis Obispo was with Red, green -- blue-green Ford Ranger and a white 4x4 truck, in Huasna.

And then her boyfriend at the time, Brent Moon, who Defense actually called, corroborated everything she

said. Everyone remember that? I just kept asking down the line, corroborate, corroborate, corroborate, corroborate.

They went to the SLO skate ramp together, so he corroborates that happened; that he would skate while she hung out. He corroborates that happened because Jennifer Hudson said, He was skating while I was hanging out and socializing.

Brent Moon corroborates that Jennifer Hudson would go with him about once a week to go skateboarding and then right after that time in San Luis Obispo she suddenly, out the blue and with no explanation, quit going skating with him, which corroborates the fact that she heard something horrific and terrifying there because actions speak louder than words and her actions speak loud and clear as to what she heard.

Brent Moon corroborates that at the San Luis Obispo house Red was present; identifies the same house as her, by the tracks in San Luis Obispo; and that Jennifer had a new Chevy around that time. And she testified she had that Chevrolet and that's why she noticed the defendant's truck, white truck, on that rural road.

Now, Paul -- Ruben Flores has made a multi-decade effort to guard his yard. And you are hearing this because it corroborates the fact that Paul Flores called him for help in burying and hiding Kristin's body from her family.

So over the course of 26 years Ruben Flores goes into the street to confront Stan Smart in the summer of 1996 and doesn't say, Let me help you, Let's go help find her, but actually goes into the street, as far away from his house as he can, to say, Get out of here or someone's going to get shot. So what does that behavior tell you? He doesn't want Stan Smart anywhere near his deck in the summer of '96. That's exactly what that tells you.

Then Angie Carrizel comes to visit in the early 2000's and both Ruben and Paul, as she's going out between the avocado grove and the deck, say, No, you got to get out of here. You got to get out of here right now. They immediately redirect her around from that location where Kristin Smart was decomposing, which corroborates that.

And she says there were four to five dogs under the deck barking. Does it surprise anyone they would put the dogs under the deck to guard the deck to keep people away if somebody was coming over? That's exactly what you would do if you were protecting that deck.

But then David Stone said that one time he called a plumber. Plumber said, I got to go underneath that deck and Ruben Flores said, Nope. No, you don't. I'll take care of it.

And then David Stone left a couple of 55-gallon drums under the deck without asking and Ruben Flores became irate that David Stone would store items down

there and made him take it out, all of which corroborates the fact that Kristin Smart was buried underneath the deck at 710 White Court, Paul Flores' place, his place, buried under the ramp.

And you saw the testimony of -- you heard the testimony of Stan Smart and he marked this exhibit showing exactly where Paul -- Ruben Flores came out to the middle of the street, as far away from the deck as possible.

Now then, February 5th of 2020, law enforcement actually comes and does a search warrant and they take pictures of the backyard and of the deck and they go through Ruben's bedroom. Everyone remember that? That was Matt Terrell that came in and talked about that. And that's important because once they started taking pictures of the side yard and the back of the house the Flores family knew time was ticking and they had to move Kristin's body.

And Jamilyn Holman testified that on February 9th, into 10th, she heard loud yelling over at 710 White Court as they were trying and having difficulty backing that cargo trailer up, backing it up with that door to the side, right at the deck, backing it up right to that part of the backyard.

And you can see that side fence is in place February 5th, 2020, and then when law enforcement comes back April 13th, 2021, that fence is gone. Everyone see that? One more time. 2000 -- 2020, side fence is in

place just to the right of that brick. Now the fence is gone. That's how determined they were to get Kristin Smart out of their backyard and somewhere else.

And what's found in his drawer? These aren't found in some storage bin in the garage or in the attic. This is in his bedroom. Now, what do you see on the handwritten note? "12/15/16, 5 p.m., FBI Shaffer, dig the yard on top." Why would that item be right on top unless that was his number one concern is that law enforcement was going to come back and dig his yard and find what was left of Kristin?

And then his sick trophy room of Kristin Smart items, including, in the bottom left, an essay contest. Cross-examination was about people honking or driving by. There is no reason to keep a Kristin Smart essay contest flyer unless this is your trophy room.

You saw the DMV printout showing that 710 White Court was, in fact, his place in 1996, "his place" being Paul Flores.

And then we come to the perfect hiding place, this picture taken in 2020. So why is this the perfect hiding space? Well, one, it's behind the house so it's away from the street. So as you can see, the entirety of the house, all three stories, are going to block that third and fourth lattice, then you have the hill and trees blocking the view to the house right up above.

And if you notice from the Defense exhibits, the lattice work was in place in 1991. So that spot is

perfect because that lattice served as a natural hiding spot in 1996.

The avocado trees you can see on the left were right in front of that area where Angie Carrizel said they moved her away from, and there's a deck underneath.

So you have one full side covered, deck on top, lattice to the side, blocked view from a hill, and a rural area behind you. Literally the perfect spot to hide a body, and it was for 26 years, and it was the perfect hiding spot for Kristin's grave.

And you heard two cadaver dogs go through and they did not alert, which is consistent with the primary source of the scent being removed, that the scent of human death; but the handlers testified that their dogs were in odor and that they were smelling it, they just couldn't pinpoint the source, which is consistent with human blood, decaying human blood, in this area.

Now, Phil Hanes testified that this excavation showed the most promise, and that was, I think, Grid 1, Excavation 2. But in any event, we all know the one we're talking about, it's the one up the side of the hill, underneath the deck.

And it showed the most promise because he testified about the surface disturbance. Now, when you have a clandestine grave, and it's kind of common sense this, when you dig it up the surface is going to be disturbed; right? Otherwise, it's not a grave. And so, this one showed the most promise because of the recent

surface disturbance.

And that the anomaly he saw was six feet long. Well, how tall was Kristin? Six-one. And it was four feet wide. Well, about how wide is a human body? Three feet. And it was four feet deep, all the way down to the bottom. Fit the exact dimensions for her body and for the fact it was a grave.

None of the other anomalies looked like this. In fact, the one at the entrance to the deck he said basically didn't show any surface disturbance so it was likely a rock; right? There was one in the flower bed and he said -- he said that it was clearly not the size for a human body, and then he saw an anomaly by the avocado tree and said this was likely due to roots.

So out of the entire property, this was the spot that just happened to be in the perfect hiding spot for a human body, which just happened to have dark stains consistent with human decomposition, just happened to have dark stains that are consistent with fluids slowly leaking out of something being wrapped, that just happened to have intact cadaver stain four feet down on both sides.

Shelby Liddell testified that was on both sides of this grave site, both against the house and against the wall, that just happened to be the depth of where you found the staining; right?

The blood -- positive blood samples were all two to four feet down, just happens to be the

approximate width of a human body, just happens to be the approximate length of a human body. And they dug as far down as possible in the perfect hiding spot.

Now, Phil Hanes, his entire specialty is ground penetrating radar. Now, he said that surface anomaly, just from the ground penetrating radar, said that that excavation was consistent with being dug and refilled so the ground penetrating radar confirms that with what Cindy Arrington says.

The other grids -- okay. So here I had it in the notes that flower bed was three to four feet so it's too small, there's nothing in there. And then Grid 3, there was no soil change or a rock or something natural.

Now, Cindy Arrington, 30-year career, with hundreds of excavations, the best of the best in California. She said the decomposition stain takes an oval shape, which makes sense. It's going to be a ring or an oval around the human body. Now, if that stain is broken it's going to be all jumbled, which is what you saw with the dark decomposition stains.

She said the stratigraphy is disturbed -- everyone remember that testimony? Yeah. Okay -- which indicates that it had been dug up and in the other excavations that stratigraphy was still in place, and the mixing of the staining shows that the soil has been dug up and filled back in.

And she said the only explanation for a six-by-four-by-four hole with no stratigraphy, staining

consistent with human decomp, is that something was -- the hole was dug, something put in there, something leaked, and the hole was dug back in and that item was taken out. That's the only explanation for that and that's what she said.

She said this dug -- this hole was dug by hand because there were no mechanical marks. I'm going to say that again to make sure we're all awake. This hole was dug by hand because there were no mechanical marks.

The stains themselves are anomalies because they shouldn't be there in the soil. Something left them there. The staining appeared at two feet and went down to four feet. She said the fluid has leaked into the soil slowly; otherwise, the lines would be thicker. The staining has been broken, breaking the decomposition ring in the soil. So you can tell the sidewalls were unbroken in that picture I showed maybe two slides ago, unbroken, and then soil broken, and that pattern also corroborates that this was dug up and then dug back in.

And she said no ferret bones or carcasses, no primate bones or carcasses, no feathering pattern near the drain, and all of the stucco was consistent, which eliminates the plumbing issue. She stood in there and smelled no odor of diesel and the no staining is consistent with decomposition in other excavations.

So she said on all of her career this is consistent with what she has seen on other excavations from actually being present and actually looking in the

grave site because she was there.

And Shelby Liddell told you that she took her soil samples from the darkest possible points of the staining. Remember she talked about spending 15 to 20 minutes carefully digging out the darkest stain possible for sample E-2? Remember that?

Well, here's why. Angie Butler, 20 years at an accredited lab. She's that lab's manager. Every result of hers has to be gone through a second review and a technical review so they're triple checked. She's used the HemDirect test in the lab, accredited lab, over a thousand times so she's also the best of the best.

And she talked about her lab doing experiments going back to the 70's, actually getting positive tests on samples, and it depends on how things are stored, like if something is stored completely protected on one side by a house, protected above by a deck, protected on the side by a lattice, and protected by soil on the other side.

And that HemDirect is a binary test like a pregnancy test. You can't be a little pregnant. It's either blood or it's not, and it's blood. She said hemoglobin lasts longer the better it is protected.

And for every test she used the manufacturer buffer to ensure the neutral pH.

And she said the April samples from 2021, and I put in quotes, she said, They were stickier than the later ones because these were curated samples to test,

these were the best, most promising samples, and that's why they came -- so many of them came back positive for human blood.

Item 41 were the fibers that were sent to Faye Springer. Faye Springer came in and told you about those. And Ms. Butler also found red and black fibers herself, not just the ones that were sent to Faye Springer, so with regards to the red, black, colorless fibers, Angie Butler corroborates Faye Springer. And that's important because what was Kristin wearing the night she went missing? Red shoes, black shorts with white striping, and a gray shirt. And that's why I asked Ms. Springer if colorless would be consistent with a white fabric or a gray fabric and she said, yes.

Now, Faye Springer is a 50-year trace evidence expert. She found multiple red and black fibers, as well as colorless, and found a whole bunch of other colors too, but these are the important ones because that's what Kristin was wearing. And she said she's still hoping she might be able to do a comparison of those fibers but we can't do a comparison because they're still holding on to the body. That's why there's no comparison.

So for the deeper soil sample from the March 13th, 2021, dig, on Item 27, five out of six test positive for human blood. That sample taken from the deep soil, three-and-a-half to four feet down, by Shelby Liddell, five out of six positive for human blood.

Soil sample E-2. Shelby Liddell circled what she took, the darkest possible stains. Item 40, positive for human blood. You can see with your own eyes the difference in the soil here, the dark stained soil versus the unstained soil. Does it really surprise anyone that some of it was negative for human blood and the darkened stain was positive? That actually makes sense. That corroborates Angie Butler's findings and that we have two positives for human blood.

Soil sample A-2, Item 44. Look at how dark that staining is. Three positives for human blood.

Soil sample B-4, one positive for human blood.

Now, the Bluestar reaction in that cargo trailer that Jamilyn Holman saw pulled up right to the side of Ruben Flores' house lit up like a Christmas tree but Angie Butler tested it and it was negative for blood. Now, what does that tell you? You get false positives with cleaning solutions like bleach and chlorine.

And you saw pictures of this cargo trailer. It's not a living trailer, it's to transport tools and whatnot. So why clean this spot, about two feet by two feet, with bleach or chlorine after this just happened to be pulled up right -- right next to that portion of the deck where Kristin was buried? And yet, as you can see, none of the rest of that cargo trailer was cleaned. So why clean just this spot? Well, we know why. Because that's how they got Kristin out.

So let's talk about some of the law in this case. So I'm going to have some shorthand in my PowerPoint. Again, you don't get my PowerPoint. If I were to quote verbatim all of these instructions this would be 300 slides so I've shortened a lot of this so we could talk about it and work with it. And there shouldn't be any conflict but, if there is, what her Honor gives you is the law. That is the law. So I am shorthanding this so we can talk about it. I'm not leaving things out that -- on purpose, it's just a way to get through this so we can focus on what's important, okay?

So I'm going to highlight Instruction 220, specifically the portion of it, In deciding whether the People have proved their case beyond a reasonable doubt, you must impartially compare and consider all the evidence received.

And that's what I'm asking you to do is to look at all of it put together and tell you what does it tell you about the truth of the charge, about the truth as to what happened, because when we first started that's what I asked from you was a truthful verdict. That's what I asked of you. And that's in 220.

Also in 220 is, Reasonable doubt is not beyond all doubt. And, again, we talked about this in voir dire, in jury selection. It's proof that leaves you with an abiding conviction that the charge is true. So I'm not picking truth out of thin air, it's right in the

law, determining the truth of the charge. And I'll keep saying it again and again and again, the truthful verdict, truth of the charge, that's what I'm asking.

The evidence need not eliminate all possible doubt, we talked about this in jury selection again, because everything in life is subject to some possible or imaginary doubt. All sorts of things are possible but not reasonable. Again, beyond a reasonable doubt. It's the same standard used in traffic court all across the country.

Is what Defense is arguing reasonable, not just possible? If you think it's possible, you still hold Paul Flores accountable for murder if you find it is unreasonable.

MR. SANGER: I'm going to object. That misstates the standards. There's a case on it.

MR. PEUVRELLE: No, it doesn't.

THE COURT: Overruled. You may proceed.

MR. PEUVRELLE: Circumstantial evidence, same as direct evidence. And what it tells you is accept only reasonable conclusions and reject any that are unreasonable. So when you compare and consider all the evidence, what reasonable conclusions do you draw from it to render a truthful verdict? And if something is possible but unreasonable, this instruction is telling you to reject it.

We talked about one witness is enough. That was in the law.

I don't have to prove motive, but if there is a motive that can be a factor going towards murder and intent to kill and premeditation and deliberation. And here you actually have motive, and Jennifer Hudson told you exactly what it was. His multi-month hunt of Kristin Smart that led to her being too kind to tell him off and he had enough of her shit.

Now, the law also tells you that if you destroy or hide evidence, this is Instruction 371, that is what we call consciousness of guilt. If you destroy evidence of a crime you can consider that, that somebody knows they're guilty, okay?

So what do we have? You saw in that timeline when Paul showered at 5:00 a.m.. The only reason to hide a body is to destroy that evidence because we all know bodies decompose over time and now you've learned that, fortunately, in this case. And when it comes to sexual assault, that evidence is in a person's body and that goes away over time. When it comes to evidence of murder and how somebody was killed, that evidence goes away over time. And that is what talented criminals do is destroy evidence of their crimes and that's what Paul and Ruben Flores did in this case.

All right. This is Instruction, I think, 625, talks about defendant's intoxication, okay? You can consider this for intent. Paul Flores says he was drunk that night, okay?

Well, we all know, using our common sense, that

alcohol and violence go hand in hand and sometimes alcohol gives us the liquid courage to do what we might not normally do, to act on our darker impulses. Drinking makes it more likely that somebody would kill over very little, just based on our common sense, over the color of a football jersey or a baseball game or common disputes. When people get alcohol in them it goes hand in hand with violence, which tells you, this instruction, that his alcohol, with his motive, because he had enough of her shit, corroborates that he murdered her.

MR. SANGER: Your Honor, I have to object. That's just a blatant misstatement of the purpose of that instruction.

MR. PEUVRELLE: No, it's not.

THE COURT: Overruled.

MR. PEUVRELLE: There are two theories of murder in this case. And we say "theory." It doesn't mean we don't know what happened, it's just a legal term.

And like I talked about in voir dire, it's roads that go to the same location. So I was -- I thought of the saying, "All roads lead to Rome." All roads lead to murder. I'm trying to think of an equivalent for Salinas. I guess you got the -- you got 101 coming through, you've got 68 coming in, you've got a bunch of roads that lead right into Salinas. So it doesn't mean one of them are just ideas, you could have

multiple roads to get there.

And, in fact, Paul Flores is so guilty of murder that he's guilty under two theories of murder. Now, here's what's important. You only have to find one theory of first degree murder. You all have to be convinced of first degree murder but six of you could take one theory and six of you could take the other, as long as you are unanimous that he's guilty of first degree murder.

Okay. So here's where it gets a little confusing. We've got felony murder, which is one way to get to murder, and then you have murder. I'm going to be saying "murder" a lot, okay? We're going through the first way to get to murder, which is murder of the second degree.

There are only two elements for murder. One, the defendant committed an act that caused Kristin's death; and two, when he acted he had the intent to kill. And I don't have to prove what act caused her death but we know she's dead. So she died, an act caused her death.

So we know Paul Flores did it because 19 year-olds do not spontaneously die and hide their own bodies. And that goes back to other instructions about hiding evidence. You hide that evidence when you're guilty of killing somebody. So that is second degree murder are just those two elements.

And the law doesn't require a body, it doesn't,

because this is one form of success for which society should have no reward and that's why the law is the way it is, just two elements.

All right. So, now, first degree murder -- so this is in addition to that murder instruction I showed you a second ago. That's second degree murder. To get to this first degree murder under this road you have to find this as well. So on this road you start with second and then you look at first, okay? So here's the first. It has to be willful, deliberate, and premeditated.

Willful, that he intended to kill. Same element as in second degree murder, okay?

Deliberate, carefully weighed considerations for and against the choice, knowing consequences decided to kill. So I talked about this in voir dire a little bit, because one thing the law says is that a decision can come very quickly. You don't have to sit down and make a pro v. con list; right? You have to carefully weigh your options.

And I used the example of a red light. And I don't mean to trivialize what we're talking about but it kind of makes some sense is that as you're coming in to a red light you might be looking at when it turned yellow, whether there's any other traffic, whether somebody's braking in front of you, whether there's police nearby, whether somebody's behind you. You could look at all of these factors and the nanosecond that

light turns yellow carefully weigh your options and come to a decision very quickly.

And when he had enough of her shit, of her being a dick tease, he came to his decision like that and decided to kill before completing the act that caused death, which can happen quickly.

Now, felony murder is the other route to first degree murder. Felony murder is only first degree murder, okay? Felony murder is only first degree murder. The other road to murder, you have murder and then willful and deliberate and premeditation.

Felony murder has three elements. One, person has to commit a qualifying felony, which is a rape or attempted rape in this case; two, the defendant intended to commit a rape or an attempted rape, so the intent; and then three, while committing the rape or attempted rape the defendant caused the death of another person. A person may be guilty of felony murder even if the killing was unintentional, accidental, or negligent.

Now, to make sure -- I know it's late and it's close to lunch but I want to make sure that last point doesn't get lost. I've voir dired on it as well. Don't forget it, write it down if you have to. It's almost lunchtime.

So here are the qualifying felonies. The rape or attempted rape by force of an intoxicated person or of an unconscious person. You received all three of these instructions. You can find any one of these

apply, you don't have to find that all three apply. And really it's six because you have rape and attempted rape. Does that make sense? Okay.

So let's start with the rape or attempted rape of an intoxicated person, okay? So that's the instruction that I'm going to highlight for you in felony murder with regard to the murder of Kristin Smart, okay, but you have the other instructions you can refer to.

One requirement, the defendant had sexual intercourse or attempted to, okay? Did everyone get that? "Or attempted to."

Two, the effect of an intoxicating anesthetic or controlled substance prevented the woman from resisting. The law is written like this. I don't have to prove what it was. I don't have to prove that it was alcohol, I don't have to prove that it was GHB, I don't have to prove that it was Roofie, I don't have to prove that it was Ketamine, I don't have to prove that it was anything, just that in her condition something rendered her so incapacitated that she could not resist and form consent.

And that, three, the defendant knew or reasonably should have known that the effect of that substance prevented her from resisting. Well, that's exactly what happened here. You heard testimony for days that Kristin Smart was incapacitated for two to two-and-a-half hours on that lawn, incoherent, not

speaking clearly; was, what did Trevor Boelter say? Willowy, spacey, and out of it.

And remember what else he said? He said, You know, I thought about this because in 2012 I was Roofied. Everyone remember that? And he said, I thought back and that's exactly what I saw in Kristin.

So here's the attempt instruction, one step towards commission with the requisite intent. So what steps towards the commission of having sexual intercourse with an incapacitated person do we have? Well, we have tons of them.

We have Tim Davis, I've got Kristin, you can get out of here. We have Cheryl Anderson, Go on ahead, go on ahead, you don't have to stick around. Next time, Cheryl Anderson, Go on ahead, go on ahead. Or even rewind to when Kristin was down on the ground and he inserted himself into Tim Davis and Cheryl Anderson. That's one step toward the commission with that intent.

The key is what's in his head. One step with the intent. So even when she was down on the ground Paul Flores saw how vulnerable she was, saw his chance and went right for her. That's one step towards the commission of a rape of an intoxicated person.

And this is why you heard about Paul Flores' other rapes. You may have been wondering, well, why are we hearing about this? He's not charged with this. So you heard these instructions. We're going to go through the law to talk about just how you use this.

This is one of the times I don't have to prove these beyond a reasonable doubt, okay? So the rapes of our Does I only have to prove by a preponderance of the evidence, which is more likely than not, much lower standard, okay.

And what -- and this is definitely one to write down, Instruction 1191A. If you find by a preponderance of evidence that just one of these rapes occurred, just one, you can conclude that Paul Flores was disposed or inclined to commit sexual offenses generally; and you can further conclude that Paul Flores was likely to commit and did commit rape or attempted rape in this case of Kristin Smart. That's why you heard that evidence. And just one of those rapes puts this instruction at play, and you have two.

So Instruction 375 is another one that I would recommend that you write down and take a look at. It is also the preponderance of the evidence standard. It is another way to consider these two rapes of Paul Flores. You can consider whether, one, Paul Flores acted with the intent to commit rape in this case.

So under two instructions, intent to commit rape in this case and whether he had a plan or scheme to commit the offense of rape. A scheme where he goes at the end of the party or at the end of the bar, the end of closing time, seeks out women who are vulnerable or by themselves, separates them from friends or anybody who could help them, to then forcibly rape them while

they're drugged, which is exactly what happened to Kristin.

And you put those two together -- and we'll go over what our Does told us -- you can conclude Paul Flores was likely to commit and did commit the rape or attempted rape of Kristin Smart. You can conclude that Paul Flores acted with the intent to rape Kristin Smart. You can conclude that Paul Flores had a plan or scheme to rape or try to rape women by separating them from others and returning to his residence with them.

Good time to break?

THE COURT: I think so.

MR. PEUVRELLE: All right.

THE COURT: Ladies and gentlemen, we are going to take our lunch recess in just a moment. I'm going to have you return at 1:15. And please try and be on time. We want to try and conclude all of the closing arguments today.

Remember, do not talk about the case or about any of the people or any subject involved in it with anyone, including the other jurors.

Do not make up your mind about the verdict or any issue until after you've discussed the case with the other jurors during deliberations.

Have a nice lunch. We'll see you back here at 1:15.

(The lunch recess was taken.)

THE COURT: We are back on the record in the

case of People versus Paul Flores. Mr. Paul Flores is present with his attorney, Mr. Sanger. Mr. Peuvrelle is present for the People. And we are in the presence of all of our jurors and alternate jurors.

And, ladies and gentlemen, just a reminder. We cannot start until we have everyone here so please try and be on time.

Mr. Peuvrelle.

MR. PEUVRELLE: Yes. Thank you, your Honor.

THE COURT: You may proceed.

MR. PEUVRELLE: Thank you. Good afternoon.

(The jury and alternate jurors respond, "Good afternoon.")

MR. PEUVRELLE: So when we broke before lunch we were talking about how to use the other rapes that you heard -- that you heard testimony of.

So to reiterate, three ways you can use them. You can use them to conclude Paul Flores was likely to commit and did commit the rape or attempted rape of Kristin Smart. You can conclude that Paul Flores acted with the intent to rape her during an attempted rape. You can conclude that Paul Flores had a plan or scheme to rape or attempt to rape women by separating them from others and returning to his residence with them.

And I reiterate this to go back to the law of attempted rape for felony murder. So attempted rape, just so we're all on the same page, qualifies for felony murder. It doesn't have to be a completed rape. So

attempted rape counts for felony murder so you apply this to an attempted rape of Kristin Smart.

The best evidence of intent is action. Kristin Smart was incapacitated. Paul Flores saw this, saw her fall down at the party because he was right there, and then lied about it. He helped her up and inserted himself when he was not needed, when he saw her stumbling. He knew perfectly well she was too incapacitated to consent, which is why he inserted himself in that situation. So when you combine the other rapes with the facts of this case, the only conclusion is that he intended to rape Kristin Smart, had a plan to do so, and took one step towards putting that plan into action.

So let's go over what the Does told us. Ronda Doe told us that she was raped by Paul Flores in Lawndale. And, once again, she told you that it was the eyes, the eyes that are so memorable to her, the same thing that Derrick Tse said, the same thing that Jennifer Hudson said, the same thing that Trevor Boelter said.

They were at the Thirsty Club at the end of the night, which is near 170th Street, and she said Paul Flores appeared out of nowhere, just like what Cheryl Anderson said, just like what Tim Davis said, the same plan, the same scheme.

This was at the end of the night and he offered to take her home. Sound familiar? Just like what he

did to Tim Davis and Cheryl Anderson. He had a scheme to separate Kristin Smart like he did Ronda Doe.

She stated his home was on 170th Street in Lawndale, which you saw from the DMV is corroborated. He went to his kitchen and gave her a glass of water and we all know what happened next. She was sober but then things got hazy. She was in and out of consciousness.

The next thing she knew a red ball gag with black straps was shoved into her mouth, which is consistent with the red ball gag that was found on his computer.

She testified she was raped and sodomized without her consent, would have never consented to sodomy because she had a medical condition, she was in pain for days, and identified his steep driveway and duplex as the one at which she was raped so we know it was Paul Flores who raped her and she identified him in court.

Now, Sarah Doe, in San Pedro, is at Crimson Bar. She said that he was staring at her while at the Crimson Bar. Well, that sounds just like what Margarita Campos said, just like what Vanessa Brinley said, just like what Steve Fleming said about what Paul Flores would do to Kristin as he would stare at her.

She said, Paul Flores appeared right behind me, out of nowhere, just like Ronda Doe, just like Cheryl Anderson said, just like Tim Davis said.

He went to -- brought her back to his place,

separated her from her friends, went to his kitchen, came back with a drink, and at that point everything went hazy again. So what's the logical conclusion is he drugged these women. He went into his kitchen, spiked their drinks, and then afterwards raped them without their consent.

She identified his car and his house. It was on Upland Street, which is true as we know from the DMV printouts, and that his house was cluttered and he was a hoarder.

And she also says this red ball gag was shoved in her mouth with a strap. Critical corroboration between two women, who do not know each other, that they had testified to virtually very similar circumstances that this red ball gag with a strap shoved into her mouth. She was raped repeatedly, even followed into the shower and raped again, over and over again. She suffered jaw pain for days, had bruises all over her body indicating she was raped by force, and thighs, arms, shoulder.

And when she said, "No means no," he hung his head in shame. Sounds like Karen Hall, the Karen Hall that you saw. When he's confronted with what he does, he hangs his head in shame and doesn't respond.

Shelby Liddell testified as to this photograph and she circled that -- that item of bedding with green floral print as being taken from the bedroom of Paul Flores.

And then Chris Fitzpatrick testified that this was found on his computer, which exactly corroborates what these Does are telling you.

There is no doubt he raped these woman. It was proved beyond a preponderance. These women tell you what Kristin cannot, that Paul Flores raped them. Predators make the pattern, predators are going to prey, and what you have seen is a plan and scheme by Paul Flores to rape women spanning two decades. What I am asking from you is accountability.

Now, how do you do that? Find him guilty of first degree murder by following the law and rendering a truthful verdict.

You'll receive two jury instructions. One of them is for guilty of murder and then you write in the degree, first or second, okay? And the other one is not guilty. Return that form unsigned. Foreperson signs the guilty one of murder and writes in "first."

So at this time I thank you for your kind attention, I thank you for your patience, and I ask you to render a truthful verdict that Paul Flores is guilty of first degree murder.

Thank you.

THE COURT: Thank you, Mr. Peuvrelle. And is the Defense prepared to give the closing argument at this time?

MR. SANGER: Yes. Let me, if I may, turn on my thing here. If I may -- I didn't realize he was going

to be that quick so let me get my microphone on and I'll start and then I'll -- maybe we'll take a quick break so I can set up the computer.

Okay. Ladies and gentlemen, it's now my opportunity to talk to you about what I think the evidence shows and, after hearing Mr. Peuvrelle, what the evidence does not show.

You have a pretty straightforward job. It doesn't seem like it because you've been sitting here so long, hearing so many words and so many witnesses, so much in the way of instructions, and you've just heard from Mr. Peuvrelle, but you have to decide whether or not a murder was committed beyond a reasonable doubt.

The short answer is it was not. All the other trappings that Mr. Peuvrelle talked about, which we'll go into detail, it was not proven beyond a reasonable doubt. And your correct verdict, your truthful verdict as Mr. Peuvrelle likes to say, is not guilty.

So after hearing Mr. Peuvrelle -- of course, I don't know what he's going to say exactly so I can't just prepare all my remarks and stand up here and run through a PowerPoint. I do have some PowerPoint for you but I also have to respond to what -- what he said.

And what he said was basically a bunch of conspiracy theories that aren't really backed up by facts. Now, I know if you followed that and you were convinced by the end of his argument you probably think I'm being unfair, rude, or something. I don't mean to

be any of those things. I may be, I just don't mean to be, okay?

But the point of the story is is conspiracy theories are fun and a lot of us, you know, follow one television network or another, can be on either side or in the middle or somewhere else, and we love to hear conspiracy theories and we love to either hear them or refute them or come up with another one, and that's human nature, okay?

But you're not here as the same people that sat at home and watched the TV and try to decide what's going on in politics, you're here as jurors. And this is -- under the rule of law, you took an oath that you would follow the rule of law, and we'll get into what that says in particular in just a moment.

So your job is not to buy into a conspiracy theory one way or another, it's to decide whether or not the People have proven the case with evidence -- and we're going to talk about that -- beyond a reasonable doubt.

The law doesn't allow you to speculate as to facts that need to be proven by the Prosecution. So it's fine to say, Well, you know what happened. And -- and Mr. Peuvrelle even went farther and kept saying, This is the truth. Well, his opinion is not evidence, okay? What he said to you in voir dire is not evidence, okay?

What's evidence is what came in from the

witnesses and the law as the law is -- her Honor, Judge O'Keefe, gave it to you already. And you will be given -- I don't think you have them yet but you'll be given copies of the jury instructions so you can read them at your leisure. That's what you have to do. That's what you have to do. You can't speculate to help the Prosecution prove a case and that's what is required in this case.

You know, in ordinary parlance, if you're sitting around watching the TV, for instance, or you read a book or a magazine, newspaper article, and you have a discussion with your friends or family, a lot of times you'll say, You know what, I'll bet I know what happened. You know what, I'll tell you what happened. And a lot of times when you do that what are you doing? You're taking your best guess, you're speculating.

You may not be speculating about everything. I'm not accusing you all of being, you know, just wild and crazy speculators but the fact is we all do that. You look at something and it's in the ordinary course of your life and you say, You know, I bet I know what happened. That doesn't cut it here. You have to be convinced by proof and that proof has to be of the quality that it convinces you beyond a reasonable doubt, okay?

So what I'm going to do is I've got to hook up my computer so we have to switch connections or do something, which we'll do in a minute, but so we use our

time wisely.

I was hoping to get done today because Mr. Peuvrelle gets one more chance to speak in rebuttal to what I say, doesn't get -- doesn't get to get up and say the whole thing again but he can actually speak in rebuttal, but there are a few things that -- that he said that I want to just address right up front.

And, one, I think it's obvious that he has rested a good part of this case on Jennifer Hudson and that gave him the opportunity to say "dick tease" at least eight or ten times, maybe more, put it up on a PowerPoint for you. Why? Because that evokes passion, that evokes a response. It's a vile thing to say. Most of us would hear that and say that's a horrible thing to call somebody a dick tease, a bitch dick tease, and then -- and say that to somebody else. I mean, we'd look at that and that causes you to not like Paul Flores.

Now, I think the evidence shows he didn't say that, and we'll come back to it, but I think it's important in responding to Mr. Peuvrelle's argument to understand the structure of what was going on.

There were a number of other things, and I think I'm going to address most of these in the course of what I intended to say. The Karen Hall video. Do you remember Mr. Peuvrelle said, You're going to see that Mr. Flores didn't say anything in response to that? He didn't say anything in response to that video. He even had Karen Hall on the stand say, And he didn't say

anything after you said that; right? She said, Yes. And then he played the video and what happens? You can see and hear a bit of it, you can see he's saying something. And I asked her, So he did say something and she goes, Yeah, I guess he did. Okay?

She did send her tape into one of the television shows. In fact, she said she was trying to get it back, I think. It's part of the overall milieu in this case.

And one of the things that we will address is that there are a lot of other things and people working behind the scenes here that have had a very significant effect on this case; right? And it's one of the reasons that there are a lot of what seem to be coincidences.

Mr. Peuvrelle says, Look, he did this, he did that, he said this. A lot of the people who testified were not interviewed right away, some were interviewed within a few days. They said different things over the years. They've come in to testify, they probably feel that they're being truthful -- with the exception of Jennifer Hudson. I'm going to reserve that remark for later.

But a lot of those people say, Yeah, you know, we heard the publicity, we understood that Paul Flores, this guy that we didn't know, was the last person to see Kristin Smart, and then they started talking and there were rumors. We heard witnesses say there were rumors going around the campus and around the dorms about what

happened. There was a meeting of all the people in the dorms to talk about what's happening.

Well, what happens? They started talking about Paul Flores. They didn't know Paul Flores. Then they come in here and tell you they used his first name. Well, Paul did this but they didn't know -- they didn't know who Paul was. So a lot of things can get -- can get morphed as you go along and we're going to see that.

More insidious really is -- are the people in the background who, as Detective Cole said, inserted themselves in the -- into the case, okay? Dennis Mahon, Chris Lambert. Those are two that you heard about. Justin Goodwin. They inserted themselves in the case. They had theories. They gave Detective Cole theories that turned out not to be true. They gave them witnesses who were going to crack the case and he went and he said he investigated and found most of them were not credible, okay?

Now, Mr. -- Detective Cole is with the sheriff's department. He doesn't decide what happens in this courtroom. This is the DA's office that decides that. And they decided that -- that they would choose to believe for the purpose -- or at least choose to put before you Jennifer Hudson. And why? So Mr. Peuvrelle could make those vile comments and attribute them to my client time and time again so you would hate him, okay? And with the hope that if there's enough passion or prejudice you're going to overlook the -- the facts.

Now, for those of you who may be with Mr. Peuvrelle up to now and think I'm being unfair, you're certainly welcome to do that, okay? You're forming your opinion as you go along. You're not supposed to form an opinion until you get into the jury room and start deliberating but everybody's got things going on in their heads. And if you think I'm being unfair, that's fine, but I'm going to try to show you precisely and exactly how this comes about as we go through the various witnesses.

I wanted to correct something -- and I don't have a PowerPoint on this so I'm going to have to do it orally anyway so I may as well just do it right now. Mr. Peuvrelle really is trying to bootstrap a murder where there's no evidence of a murder. There's none, okay? No evidence of a murder, okay? You can say, Well, I think I know what must have happened, could have happened. Mr. Peuvrelle says, Oh, it could have happened this way. There's no evidence of a murder so he tries to bootstrap things in.

And one of the things I was just taken by was the attempt to say that it's an attempted rape if you take one step towards a rape, okay? But his one step was meet a girl at a bar, buy her a drink, offer to walk her home, but that's not what the instruction says. Nowhere does it say one step. He put "one" up there. That was Mr. Peuvrelle, that wasn't out -- and he said he was paraphrasing the instructions but "one" was not

in it. I think he even had a -- he italicized it in his slide.

What it says is that there has to be a direct step. And it says a direct step -- and this will be number 460. So you'll get this, I think it's page 42 of your hymnals is the word, okay? You'll get -- I think you'll each get one of these sets of instructions from the Judge. And so, you'll look at page 42, 460. Since I don't have a slide for you I'll just read it:

"A direct step requires more than merely planning or preparing to commit rape or obtaining or arranging for something needed to commit rape. A direct step is one that goes beyond planning or preparation and shows that a person is putting his or her plan into action. A direct step indicates a definite and unambiguous intent to commit rape."

The direct step has to show it. And "definite and unambiguous," the word's in there for a reason, "intent to commit rape." It is -- so buying somebody a drink or whatever, walking somebody home, that's not an unambiguous step. That may be -- you know, it's like you get up in the morning and you have a -- a glass of water and you go to work. It's true you had a glass of water and you went to work but the water didn't make you go to work.

Here, if somebody is walking somebody home, that's not a direct step. It's got to be unambiguous intent to commit rape. This is -- and it's explained

here in a minute so I'm not trying to mislead you. It's a direct movement towards the commission of the crime after preparations were made. It is an immediate step that puts the plan in motion so that the plan would have been completed if some circumstance outside the plan had not interrupted the attempt. That's the law.

You had no evidence that there was a circumstance outside the plan. You don't really have any evidence of a plan but to the extent that, you know -- I mean, just think about it for a moment. If this was attempted rape, then all the people in -- not only in colleges but elsewhere who go to a bar and try to pick up on somebody, that would be a -- that would be the one step that Mr. Peuvrelle was talking about, but that's not the law. The law is -- the law is -- the law isn't ridiculous, it's not saying that anything you do is going to be a direct step. It -- it says the direct step is an immediate step that puts the plan in motion so that the plan would have been completed if some circumstance outside the plan had not interrupted the attempt.

You have no evidence of an attempt at all and you have no evidence that the attempt was interrupted. It's the kind of case where somebody is in the process of perhaps trying to commit a rape -- and I understand these -- these concepts of rape and all the jury instructions you listen to where it repeats over and over and over again, different kinds of rape, I mean,

it's terrible. None of us want to see a rape occur and we don't really like to hear about it, but the fact is that if there was evidence of it here you would have to hear about it.

And as far as 1996, Kristin Smart, there is no evidence of an immediate step and no evidence that the plan would have been completed if some circumstance outside the plan had not interrupted it.

So that's the kind of thing that the attempted rape is if somebody is actually in the process of -- of assaulting someone, usually a man assaulting a woman but it can be the other way around, and they're in the process and somebody comes in the room or opens the door or there's a scream and somebody comes to their assistance and you have evidence of something that actually interrupted the rape. That's not what we have here.

And the reason that -- that this is so important to the Prosecution and why they're trying to harp on it is because you can't get the evidence of the other two people, the two Does, Ronda Doe and Sarah Doe, that doesn't even come in, you can't even consider that unless you have proof that there was a rape. If you don't have proof that there was a rape or an attempted rape in 1996, then you can't consider that at all. But, of course, Mr. Peuvrelle has woven it into his entire argument with the -- with the hope that some of these distinctions will be blurred.

He said it's convoluted and I agree with him on that. It's a very weird area of law where you're allowed to consider the other what they call uncharged acts if they're -- if they're proven to you, and they have to be proven by a preponderance. That's the only part here that he has to prove by a preponderance. They have to be proven. If you find there's not a preponderance -- and we'll talk about that in a second -- then you have to -- you can't consider them at all.

But if you find that they're proven by a preponderance you cannot consider them to find Paul Flores guilty of murder unless you find that there was an actual rape. So they can bolster the actual evidence of a rape but they can't convince you to just find somebody guilty of a rape because he's a bad person; right?

Let me just talk about a couple of other quick things here. I'll -- I'll mention the instruction on adoptive admission, which is instruction 357, which is where -- and I didn't have this up on the PowerPoint because I didn't really think it was a -- I didn't know what Mr. Peuvrelle was going to do about it. And, quite frankly, if you look at his opening statement, it's similar in many regards to his closing argument because he knew what evidence he was going to put on but he's made some significant changes while the trial went on to try to accommodate evidence that turned out not to be as convincing as he hoped it would be.

But one of the things he's now emphasizing is this adoptive admission. And, quite frankly, I think it's grasping at straws. You decide. He was saying that there was an adoptive admission where Detective Smith had done the wiretap. And I'll probably cover this in a little more detail. I apologize. This is an important job I have and I want to do it right, as Mr. Peuvrelle wants to do his right, I'm sure, so it may take some time but let me hit this right now because an adoptive admission is a statement that's made in the presence of a -- of a defendant. It's either made to the defendant or in his presence. It's like, Well, did you kill that person? And the defendant just doesn't say anything. Or some other -- whatever you want to imagine.

It's not Paul Flores' mother going on -- and we heard the tape went on for something -- what did we hear, 27 minutes or something like that, and every once in a while he'd say "uh-huh" or "yeah" and his mother didn't -- no offense to his mother, who's present, but she -- she did tend to go on, okay?

But it has to be a statement made to the defendant or in his presence and the defendant has to have heard it and understood it and the defendant would, under all the circumstances, actually have denied the statement if he thought it was not true and the defendant could have denied it but he did not. So I don't know if he could have denied it because his mother

kept talking but assuming he could have said, Stop, I want to clarify something, what was he confronted with?

And you recall -- you've got the snippet from the tape but when we asked the officer what happened right before and right after it was very telling. It was also telling that he had 10,000 wire tap conversations. He said 10,000 in that 30-day period because they tapped the whole family's phones, okay? And they have one snippet that they wanted to bring forward to you here out of all of that, with stimulation and everything else trying to get this family to talk to each other and say, Oh, my God, we're in trouble or, Paul, you have to do -- what happens -- well, it turns out, remember the testimony, that in the prior conversation before the snippet the -- the mother, Susan Flores, was talking about the facts that -- fact that over the years for their civil cases they had -- where they were sued, you heard they were sued by Jim Murphy, that they had lawyers and that Paul Flores' lawyer had retired and so she was talking to him about, Well, you better make the call.

What was the call? The call to the lawyer to see if he's still active, she thought he was retired, and if not see about getting a lawyer. And I think he even said, Maybe if this goes any further you could -- you could see if you could get a Public Defender.

This is at the time when they're trying to stimulate, this is at the time where the podcast -- what

do we have, seven episodes of the podcast I think was the testimony by then and she says, You should listen to the podcast. Well, Paul Flores obviously, from the conversation, had not listened to the podcast, not paying attention to it, and she says, Well, because they're saying all sorts of things and you should listen to it. That would be very reasonable advice, okay?

I'm sure Paul Flores did not want to listen to it from what you can tell. He lived 24 -- 25 years under the gun here and under accusations and being followed and surveilled and police officers coming to his job every time he got a job, that sort of thing. I mean, he's -- he's obviously tired of this. And his mother's saying, Well, no, you ought to listen to this podcast now, somebody's put out these podcasts. That's -- that's not a -- that's not a time to say, Oh, mom, you know I didn't do this because she knew he didn't do it.

And the police officers listened to 10,000 conversations. There was nothing in there about -- about Paul Flores doing it or we know you did it or you better cover up or you better do this or -- there was nothing. If you -- if they had found anything they would have brought it forward. That's all they have for you so that's not an adoptive admission. I probably will refer to it again, but look at page 24, 357, on adoptive admissions.

Again, it talks about real things. We're not

-- we're not just pulling things out of the air here. The law doesn't allow people to be convicted on these ethereal theories or speculation.

So let's see if I can do something else real quick and then I'm going to ask the Court if we can take just a little break to hook up the computer but just if I can do something more here.

We'll get back to -- we'll cover -- well, these are my notes that I just took so give me just a moment here. I think most of them are going to be covered as I go along so -- I might forget to say this if I don't say it now.

Mr. Peuvrelle indicated that -- a couple times, you know, Kristin Smart never would have gone anywhere without her makeup or her bag and she would have come back to her room. Okay. Except you have the testimony of Felipe Arias who said that if there's a man in the room she came to his place at least six different times and one time was just the day before. So, I mean, just to take -- to cherry pick some things and not talk about all of them is really not fair and it's not fair to you because you are the triers of fact and you really have to look at all the evidence. I agree with Mr. Peuvrelle on that, he put that up. It says you look at all the evidence, you can't just cherry pick it.

All right. And then there are a number of remarks about Paul Flores is guilty as sin. Well, Mr. Peuvrelle can have his opinion but it has to be

based on the evidence and his belief or whatever he was conveying by telling you those things is not -- that's not relevant. His belief is not relevant. My belief is not relevant. We have to talk about the facts in the case. Now, we can say if you look at the facts I believe that fact showed so and so but to say he's guilty as sin, that's just -- that's just appealing to emotion.

Okay. I think probably the best thing to do, because this will all come about in the rest of my argument, I believe, your Honor, could we just have -- I don't know how long it takes, like probably two minutes, to change the hookup here? I'm plugged in but I don't know what's going to happen when I push the button. Is that all right?

THE COURT: All right. Ladies and gentlemen of the jury, if you would like I can have you step into the back hallway jury area for about five minutes so that Mr. Sanger can set up and we'll have you come back literally in five minutes, at 2:05.

Remember, do not talk about the case or about any of the people or any subject involved in it with anyone, including the other jurors.

Do not make up your mind about the verdict or any issue until after you've discussed the case with the other jurors during deliberations.

Thank you very much. We'll see you back here at 2:05.

(A recess is taken.)

THE COURT: We are back on the record in the case of People versus Paul Flores. Mr. Flores is present with his attorney, Mr. Sanger. Mr. Peuvrelle is present for the People. And we are in the presence of all of his jurors and alternate jurors.

Mr. Sanger.

MR. SANGER: Thank you. Okay. How you doing? It's -- I know. It's a long day already and it's two o'clock and this is really when everybody, including myself, wants to take a nap so -- but that's what happens when you're on the defense. You usually go in the afternoon so here we are.

So I've got my PowerPoint working. And so, the first slide is really meaningless but I'll just point out, Mr. Peuvrelle puts the seal of the District Attorney of San Luis Obispo on a lot of his stuff and -- so I put SS&D. That's my law firm.

DEPUTY ZARAGOZA: Mr. Sanger, your microphone.

MR. SANGER: Oh, my mic. So I put up -- there we go. I put up SS&D. That's my law firm. And neither the seal of San Luis Obispo County or the DA's office or the mantle of their office, nor my law firm or the fact that I'm a member of it or anything else has anything to do with this. You have to decide this case based on the facts and the law, okay?

So it turns out that we're not making this up. We didn't make this up on, you know, last May or

something just for this case. This has been the law of California since California was a state and of the United States and to a large extent back to the law of England for hundreds of years. A defendant in a criminal case is presumed to be innocent, okay? Now, these aren't just words. There's -- there's a whole philosophy behind this which comes out in the instructions as you read them, okay?

A defendant is presumed to be innocent. And this requires that the People prove a defendant guilty beyond a reasonable doubt if they can. And in deciding whether or not the People have proven the case beyond a reasonable doubt you must impartially compare and consider all the evidence that was received throughout the entire trial. Unless the evidence proves the defendant guilty beyond a reasonable doubt, he is entitled to an acquittal. You must find him not guilty. So this doesn't just apply to Mr. Flores, it applies to everybody. You know, you're presumed innocent unless and until there is proof beyond a reasonable doubt.

Now, Mr. Peuvrelle indicated -- we can't -- if we put up the whole packet of instructions, which is -- we're on page 47 at one point so I -- I didn't count them but I think it's 50 -- 50 pages. If we put the whole 50 pages up here you would probably be very irritated at either one of us who did that and so I agree that we are going to put up portions of the instructions, but you have to consider all the

instructions.

And the fact that we emphasize something, we're doing that because we think it's appropriate but we also have to put up the instructions or should put up the instructions as they're actually written. But obviously we have to skip and leave things out.

Mr. Peuvrelle indicated that a reasonable doubt is not just an imaginary doubt, and there's a part of the instructions that says that. You know, this is not -- we're not playing games. This isn't like a maybe we're all dreaming and we didn't really have a trial and you're going to wake up and, you know, be doing something else in your life. I mean, that's an imaginary doubt. Anybody that studied philosophy remembers Rene Descartes came up with that sort of thing. But, you know, that's not what we're talking about. We're talking about a reasonable doubt. The People have to prove the case beyond a reasonable doubt.

Now, as I indicated this case is -- the evidence you have is -- is really absent. There's no evidence of a murder. So that's really the end of it, okay? There's no evidence of a murder. You have to have evidence of a murder. Mr. Peuvrelle says, Well, he's not required to do this or that. He is required by the law to prove a murder if you are going to convict somebody of murder.

And -- and I want to point out also this is -- this is a -- this is a sad case. It's a sad case,

there's no question about it. Kristin Smart didn't come home and we heard the sort of appeal to emotion about all the Sundays and everything. That doesn't prove the case. That's an appeal to passion or prejudice. But let's be honest, I want to be honest on this, it's certainly a sad case.

This is a young woman who was going to college in 1996. She obviously had some problems. She -- that came out -- the Prosecution put all this up there. We didn't go around fishing for anything bad to say about Kristin Smart but the Prosecutor put that up and had the parents talk about the letter that they had sent her. She was engaged in some at-risk behavior. We're not in any way saying that she therefore deserved whatever might have happened to her, but we don't know what happened to her. But whatever happened to her, if it was untoward, it was not something she wanted, it's -- it's even sadder, okay?

And whatever at-risk behavior she was engaged in is not any excuse for something happening to her but it's also evidence. It's evidence that she was engaged in risk-taking behavior. And you heard it -- and the Prosecutor put it on, we didn't, you heard about her activities at the party.

Mr. Peuvrelle wants to say, Well, Ted (sic) Boelter didn't really think he -- he smelled any alcohol when she kissed him but other people said she was drunk, she was falling over, she was doing all sorts of things

that indicated she was -- she was intoxicated long before she ended up on that little piece of lawn.

And you remember the witness said that the lawn didn't look like that back then. It was -- there was a bigger area, like perhaps a driveway had been expanded or something, but there was a bigger area and there was grass.

And while Mr. Peuvrelle, you may have noticed during questioning, liked to say, Well, when she was on her -- lying on her face and then the witness eventually would say, Well, she wasn't on her face, she was on her side and her arm. So those are little things but they're things that you know you have to look at honestly.

We don't know really what time anything happened because all these kids were college kids and they were all drinking at that party. You can reconstruct the time frame that -- that Mr. Peuvrelle likes. So he wants to say that the -- that the kid who said she was out there at about midnight, well, that was really midnight and then it was two o'clock, later it was really two o'clock. It's probably more likely it was around two o'clock when the party broke up because that's when those things happen but we don't know the exact time frames.

But we do know that she was engaged in a lot of behavior and I didn't -- I didn't want to go over it. It was brought out by the Prosecution that she was

kissing a number of different guys and doing a bunch of things and -- and falling down and getting drunk.

All right. So it's -- it's, you know, a sad case and it's terrible to even have to talk about that. It would be nice to just keep that picture that Mr. Peuvrelle first put up, which was a high school picture. You remember there was another picture of the way she looked in college, which is fine, but it would be nice to just preserve that -- that idea that everything was fine and she was angelic and didn't have a problem but the reality is she was engaged in risky behavior and you heard about it. And that has to do with how you interpret the events that transpired thereafter.

Now, I've mentioned this now several times because of the rather striking appeals to passion in the Prosecution's closing argument or opening argument as we call it. It's all argument. They open, they close, I just argue in the middle. And you have to decide the case based only on the evidence that's been presented to you in this trial.

It's what I just said but this is instruction 200. The Court, the Honorable Judge O'Keefe, has already read that to you and you'll have a copy of it. And it goes on to say a lot of things but it says, "You must not let bias, sympathy, prejudice, or public opinion influence your assessment of the evidence or your decision."

So you can't just say, Boy, I don't like Paul Flores after hearing all the bad things that Mr. Peuvrelle said and I feel sorry for the Smart family, which I think we do. You can say that but then you can't say, and therefore I'm going to convict. You can only convict if you have evidence, actual evidence, that proves that there was a murder beyond a reasonable doubt.

And, of course, you have to follow the law. I put that in there. I'm sure you'll do it. You have the 50 pages. That's the law that you have to follow.

All right. Now -- so basically you can't overcome the presumption of innocence, you can't obtain a guilty verdict just based on passion or prejudice or innuendo or speculation.

We have the reference -- let me get that out of there. I have the references that we heard to -- to the comments made by -- or attributed to Paul Flores, or who she said was Paul Flores, in 2019 by Jennifer Goodwin -- I did it too -- Jennifer Hudson, with her friend Justin Goodwin.

You have a theory that Kristin Smart -- and my apologies to the family but that's what Mr. Peuvrelle was saying, Kristin Smart was buried here or there. It's a terrible subject. In his opening statement Mr. Peuvrelle said, Kristin Smart had been buried out in Huasna. And that was what they tried to get out of that witness, Jennifer Hudson, and they did. That's what she

said. She even said she was out there, she went to -- they had this whole story, which we'll go over. It's totally unbelievable.

But what did they do? This is the first time that we ever heard this theory. It wasn't in his opening statement but in his closing argument all of a sudden he says, Well, you know what, Huasna is really very close to Arroyo Grande.

So when -- so when we had Detective Cole testify for the Defense -- I mean, he testified as a -- as a witness to tell the truth. He wasn't here to be for the Defense or for the Prosecution. He took the stand as a sworn police officer, taking the oath here, and he told the truth. And he told the truth that he couldn't corroborate anything that -- that Jennifer Hudson said. And we'll go over some of the problems associated with it.

But he also said they went up and they dug up all over the place in Huasna trying to find where the burial was based on her statement, couldn't -- couldn't find anything there, maybe pig bones or maybe not. I can't remember if that was where they found the pig bones, but nothing.

And so, all of a sudden at the end of the case, I don't know if you were surprised, Mr. Peuvrelle says, Well, you know, let's change our conspiracy theory a little bit and she was buried at his place under the ramp. Well, the deck looks like a ramp. Where did that

come from? She said a ramp, a skateboard ramp. I mean, you just can't take these things and pull them out of the air and try to convince people that something happened that didn't happen. It was right in front of you, okay?

Now, they're saying about that -- because I was taken by surprise by that. He says, Oh, it's right next to Arroyo Grande. We heard it was what, 20 to 30 miles. It was like a 45-minute drive because it was a mountain road.

So, unfortunately, I'm not from here, although I like it here. I've considered coming here for a vacation, I have in the past, but I don't know the area enough. So I was just thinking at the lunch hour after hearing that, Huasna's right next to Arroyo Grande? That's like saying what, Pebble Beach is right next to Salinas? Just a -- it was buried under a deck in Salinas -- or it was buried under a skateboard ramp in Salinas. Oh, no, it was a deck in Pebble Beach, but that's the same thing.

And I was trying to -- I was looking, quite frankly, at my -- at the lunch hour trying to get a Google map because you all know the place better than I do, you know the area, but I was trying to find a remote area around here where you go to and I don't know how remote those areas are. So I saw Hollister is maybe about the same distance away but you can get there by more or less regular roads. But you think about it. I

mean, if somebody said Salinas or somebody said Hollister or somebody said Pebble Beach and then they say, Oh, it's Salinas, close enough. It's close enough. It's not close enough. This is not close enough for -- for government work, this is proof beyond a reasonable doubt.

But it's a terrible subject to have a talk about as to where a body might be buried but the story is preposterous. And the story until just before lunch, when you heard it for the first time, and I did too, the story was that the -- the body was buried in Huasna and then somehow ended up coming back some years later or months later, years, nobody knows because there's no evidence, it was buried under the deck at White Court. And there was no body buried under there. We'll talk about that but it was buried there.

And then Ms. Holman, who takes pictures from her bathroom window because she doesn't like Ruben Flores. She admitted that. She doesn't like all the people that come up and honk at his house and -- and harass him and she didn't really want him as a neighbor, she goes to where? Did she go to the cops? No. She went to Jim Murphy, the plaintiff's lawyer who's been suing the Smarts (sic) for all these years and then she talked to Chris Lambert, the podcaster, and then Chris Lambert met -- they talked to Detective Cole and he came down, one of these many weird, you know, goose chases that he was sent on in this case but he dutifully

followed everything up.

So he goes down to Murphy's office and interviews Ms. Holman a year later and she goes, you know, A year ago I saw this activity, he must have been moving a body, okay? I've been talking to the podcaster about it but now I should be talking to you about it. Okay. That is so bizarre for other reasons but -- which we'll get to.

But the point is what is the point here? A body is buried out in Huasna and then it's brought to White Court and then it's dug up and put in the trailer and it's still bleeding or something 25 years later on the floor, and then, Oh, no, it's not blood so -- because Luminol, or Bluestar, it's basically a different brand name, Bluestar will show up with bleach, Oh, it must have been bleach.

I mean, this is the guy's work trailer. No blood, no DNA of anybody except Mike McConville, who we haven't seen here but Mike McConville it was his work trailer and he's the male friend of Susan Flores. And she lives at a different house on Branch Street as you know.

So we had this theory that somehow there's a body being taken out there and it's brought over here and it doesn't leave any traces except maybe this -- these little things in these lamellae that we heard about but we're going to call that blood with HemDirect that's not used for that, but okay.

And then, but we can't find a body or anything so they must have taken the body out in this truck and is -- 25 years later is -- is leaking liquids and is going to be brought somewhere, except the trailer never left you may recall. But it's just a weird theory.

So the theory got a little weirder just before lunch, which is, well, maybe because that's such a weird theory, let me propose this, Mr. Peuvrelle says, that the evidence shows that the body was buried at Paul Flores' place under a ramp -- oh, a deck, in Huasna -- oh, Arroyo Grande, which is only, you know, 45 minutes away, okay? That's not proof. That's not proof and it doesn't make any sense. It just doesn't make any sense if you stop and think about it. It doesn't make any sense.

All right. We heard about dog alerts, which we'll talk about, but just a preview of that. Remember that the dogs alerted all over the place? We had dogs alerting in Huasna in different locations. Of course, Jennifer Hudson picked out two different locations in Huasna to go dig under and around trees and so on. But they -- they alerted. We heard they alerted at the Performing Arts Center, they alerted --

MR. PEUVRELLE: Objection. Misstates testimony.

MR. SANGER: No, that does not.

THE COURT: All right. Overruled. You may continue.

MR. SANGER: They alerted at the Performing Arts Center, they alerted at a dumpster, they alerted at an administration building, they showed interest -- okay.

Mr. Peuvrelle is -- apparently is not satisfied to just let me argue, he's going to shake his head for you. Okay. That's totally inappropriate, your Honor.

THE COURT: Let's proceed.

MR. SANGER: Okay. I did object during Mr. Peuvrelle's argument but they were legal objections, they were overruled, and that was it. No business of interfering with my argument by shaking a head and all that sort of thing.

We had evidence. So what we didn't have, because the Prosecution didn't put it on, we don't have to put it, we don't have exactly where dogs alerted and where they didn't alert and where they just showed behavior and so on. We had general testimony from Adela Morris that her dogs had -- I think she said her dogs showed interest at the Performing Arts Center and the administration building but we never got any indication where that was.

We had other testimony that dog -- from different witnesses that dogs alerted at various places. I think Detective Cole even said they alerted at various places on -- on campus. I think Mr. Mesick specifically asked about that, that they alerted various places on campus, around the campus, in the hills, a couple other

locations. I think one was Prince Street or something like that, and then Huasna, and then they showed interest at -- at White Court.

Now, the little exercise here -- because you are the triers of fact. It's a tough job. Think about it. If somebody came in and said, you know, These dogs showed interest and there was -- there was alert. I can see with the shaking of the heads that there is -- they're objecting to that but there was actual testimony that there were alerts at other places. So let's just pick a place, wherever it is, okay? Because you weren't given all that evidence. You were just given the summary.

Let's say if there was an alert say in the hills and somebody was seen up in the hills and Mr. Peuvrelle wanted to say, You know what, this is a college student, he used to go to parties, and he was seen up the hills and we have dog alerts, you would be asked to consider that as evidence and to ignore the fact that there were alerts at the dorm, which we'll get to in detail, or that there was dog interest at White Court or alerts out at Huasna; right? You'd be asked to ignore that. You'd be asked to just say, Okay. I'm going to take that one now.

And that's just a little mental exercise. I mean, the fact is that's all you have here. And we'll get to why it's -- there's more reasons to be concerned about that.

So we talked about the kinds of evidence that -- and Mr. Peuvrelle talked about this a little bit but I want to talk about it again because it -- you have to read the whole instruction and take all the instructions together and so on.

But there's a -- an instruction that says that direct evidence can prove a fact by itself. It doesn't mean it does, just that it can. And circumstantial evidence does not directly prove a fact, it's a two-step process, but it -- it proves other facts from which you can draw a conclusion or an inference, okay? So two steps.

So the first one, and I think the example is the -- the raincoat, seeing the rain and the raincoat, okay? So you're given the example by the Judge, it was very brief. Somebody says, I looked out the window and it was raining, okay? So you say, Okay. That's direct evidence. It doesn't mean it's proven, it just mean somebody's claiming they looked out the window and it was raining.

Now, if you find out they didn't tell you for five years, ten years, 20 years, 24 years that when they looked out the window it was raining, that's one of the reasons you might wonder if they were telling the truth or if they really saw it raining, if they were mistaken, whatever. It might be you have other evidence that shows it wasn't raining. So you may not believe that witness beyond a reasonable doubt who said it's raining

outside. You might, you know, but you might not. That -- that doesn't conclude things, that's just the kind of evidence it is.

The other thing, and this is, you know, part of the 20-minute law school that you get here -- it's more like an hour of law school. It took a little longer to read these. And anybody that remembers Saturday Night Live way, way back, Father Guido Sarducci. Most of you are too young but he used to do the -- the ten-minute university where you don't remember anything anyway so you just get the one fact from that class and you remember if you have some orange juice for your break and you go home, okay?

It's a little bit like that in the sense that -- that you're asked to try to figure this out. And some of these things, obviously we went to law school and studied them and you read law review articles about them and so on and they're really condensed down by Judge O'Keefe in a way that makes them as understandable as possible. They're not impossible to understand, they're just sound a little weird because you use different words. Like how many times do you say "circumstantial evidence"? You may say it but you don't mean it technically. So here we mean it technically.

So circumstantial evidence, somebody says, I saw the guy come in the door and he had a raincoat on and there was water on his raincoat. Didn't see it raining but he came in, I think it was raining outside,

okay? That's circumstantial evidence. Well, first of all, you have to believe beyond a reasonable doubt, it's something the People have to prove as part of their case, you have to believe beyond a reasonable doubt that that witness was accurate and there was really water on the raincoat and so on and then you have to look at any other reasonable explanations.

Maybe you look at it and you find out from other evidence that the guy who came in just ran into a -- a -- into a fire hydrant with his car and he wanted to say the streets were wet and it was raining, see my raincoat.

You know, I think Mr. Peuvrelle he referred to voir-dire, which I really don't think is appropriate but since he did I'll just say there's the example of the kid with the cookie all over his face and you say, Well, that's circumstantial evidence that the kid took the cookie. He's standing there, little kid, mother looks around, there's no cookie and there's this one kid with cookie in his face.

And, you know, one of things I think I said, and it's true, is that that's all well and good, that's circumstantial evidence if you believe it all, but there might be another explanation. And if you saw the big sister standing there with her hands behind her back and pieces of cookie falling on the floor you might wonder if she didn't just stuff some cookie on the kid's face to try to get away with it. You know, fanciful sorts of

examples.

But just the fact you see the guy with the wet raincoat doesn't mean it's raining outside. You first have to be convinced beyond a reasonable doubt he had a wet raincoat, then you have to look at the reasonable interpretations as to what may or may not happen to lead to that.

Fortunately, or unfortunately, that's a very simple example and we don't have simple examples here but we do have examples of that. In fact, the whole case is circumstantial.

So you have to both find the facts are true beyond a reasonable doubt and that the only reasonable interpretation leads to guilt because in the next instruction, which is number 224 -- and, again, this is a cut-down version but these are the actual words, I didn't change any of the words, "Before you rely on circumstantial evidence to conclude a fact necessary to find the defendant guilty you must be convinced that the People have proven each fact essential to that conclusion beyond a reasonable doubt." So that's what we're talking about. You've got to prove there was a guy, that he came in the door, that he was wearing a raincoat that had water on it, et cetera, et cetera.

But the next paragraph is the one that says, "Also, before you may rely on circumstantial evidence to find the defendant guilty you must be convinced that the only reasonable conclusion supported by the

circumstantial evidence is that the defendant is guilty. If you can draw two or more reasonable conclusions, you must accept the one that points to innocence and reject the one that points to guilt."

So it's just another version of proof beyond a reasonable doubt. This is a serious enterprise and we don't convict people in this country and determine that the presumption of innocence has been overcome without going through very strict legal procedures. And you're part of it and this is what you're doing.

So let's go to something else that's before you here. And I think this is really -- it's really important to look at the big picture when you're evaluating the evidence, okay?

You heard that there was a lot of publicity. I mentioned this earlier. There was a lot of publicity. You heard the evidence that there were posters, there was rumors, there was innuendo, there was everything else. And we even had this poster, which Mr. Smart admitted that he had put around various places. He couldn't remember where but he believed, you know, at Cal Poly campus. He couldn't remember if he put them around Arroyo Grande but there were posters. We heard from people there were posters.

I mean, this is a horrible thing because in 1996 there was no more or less evidence than you have right now. Mr. Flores, Paul Flores, was not arrested because there was not evidence to convict him of a

crime. He was the last person to see Kristin Smart and that was pretty much it. And yet how would you like to have a poster put out there like that in your neighborhood or your school or someplace else? But whether you like it or not, the fact is people are getting rather worked up and Paul Flores is a topic of conversation.

We know that not only was that the case but there were billboards, including a billboard in the front yard of the office of Jim Murphy, the Plaintiff's civil lawyer for the -- for the Smart family. We know that there were other billboards elsewhere in the -- in the county. We know that there was a lot of press.

Coincidentally, Exhibit 216, the -- this was a newspaper article that was taken out of Ruben Flores' drawer. I'm representing Paul Flores, not Ruben Flores, of course, but the characterization that this was a trophy? I mean, that's just offensive. You remember -- you remember what was in the drawer? What was in the drawer was the hate mail that he's been getting. It was a collection of stuff about Kristin Smart because he was getting hate mail.

And when you hear, Oh, the only two people that weren't out looking were Paul Flores and Ruben Flores, well, that's not true. But the fact of the matter is if you got -- you heard that there were rocks thrown at their -- at their house, there are people with bullhorns, there are people beeping their horns, coming

around his property because why? Well, among other things Paul -- Ruben Flores' address was listed right there at 710 White Court, certainly trying to get people riled up, a little vigilante action, and it worked, and apparently it's worked for years and years and years.

So in 2014 this just happened to be an article that was in the drawer with all the hate mail and other collections of stuff that pertained to this case that's -- that's made the -- the Flores family, it's just made their life completely miserable for 25 years. You heard -- you heard about it.

And what does this newspaper say? Well, 2014 it says, "The case is back on calendar" -- or "On county radar" rather. And then it also points out that "Campaign contributions disclosed for county raises." So 2014.

And then what about 2017, leading up to 2018, we have activity in this case? And then 2021, leading up to 2022, we have activity in this case? And when we have activity in the case it isn't just Detective Cole quietly investigating. He says he didn't call the newspapers or the media, but we heard that Justin Goodwin said that he got a heads-up in advance from somebody. And we know that the press was called out by somebody who knew about this because when there was a search we heard there was -- there were cameras there to record the search from the news media.

When there was arrests, when they finally

arrested Paul Flores and his dad, two different places, his dad was in White Court in Arroyo Grande, Paul Flores was, what is that, 180 miles or -- I don't know where it is. San Pedro. It's probably closer to 200 miles, but it's -- whatever it is, it's a long way away, exactly the same time, coordinated arrests, Detective Cole said he didn't call anybody but somehow there are people there and the media was there to photograph, video them being taken into custody in 2021, leading up to 2022. So you can draw your own conclusion from that.

So one of the things we have to say at this point, even though there was a lot of publicity about the arrest and it made national television and everything else, the fact of the matter is that an arrest is not evidence. There's 25 years of nothing and then there's an arrest but the arrest is not in evidence. The fact that he's brought to trial is not evidence. You cannot be biased against the defendant just because he's been charged -- arrested, charged with a crime, and brought to trial.

But that's really all they've got going for them besides this Jennifer Hudson, which we'll get to.

And then they said David Stone was a straight witness. Well, we'll get to that.

So what are you supposed to do? Well, you're supposed to look at the evidence somewhat objectively. And how big is that up there? It's not very big. All right. Well, you'll have it. And basically the -- it

says -- part of it says, "You, alone, must judge the credibility or believability of the witnesses. In evaluating a witness's testimony you may consider anything that reasonably" -- "anything that reasonably tends to prove or disprove the truth or accuracy of the testimony."

Now, pertaining to truth and accuracy, one thing we know is there is this sort of vigilante thing going on with rocks and horns and bullhorns and that sort of thing, engendered in part by that poster but also there was rumors. We heard the testimony that there were rumors around the dorms and people were sitting around talking about it. It went on through 1990 -- from spring of '96 on to the fall of '96 and then the -- 1997 and it never really stopped, but we had -- we hear testimony that it was pretty significant around the campus at that time.

So one of the things that you're going to -- that you're going to look at is were people influenced by outside factors. And that's something that we -- whoops. Oh, well. I thought I had another slide there. I probably do. It's probably later. Okay. But it's one of the things you can look at when you're determining the credibility of the witness.

The Judge instructed on it in another instruction pertaining to -- specifically pertaining to identification that if somebody says they identified the defendant you can consider the -- the extent to which

publicity had some effect on that identification, but it's part of this too. Anything that you -- that reasonably tends to prove or disprove the truth or accuracy and anything that might have affected their testimony.

So in the list of things that are given to you -- and these are just suggestions because it says, "Among the factors that you may consider are," and it gives you a bunch of factors you may consider but it's not exclusive. You can think of anything -- anything that might affect their testimony. Pardon me.

So, first, I'll go through them quickly. How well could somebody see, hear, or otherwise perceive what was going on? Mr. Peuvrelle talked about his star witness Jennifer Hudson. Not only did she say that -- she changed her story and do everything else -- yeah, there you go. See, I -- that was -- I was thinking that's unfair, I took a sip of water there, so anybody that wants water just raise your hand. I'm sure the bailiff will take care of it.

So see, hear. Well, first of all, there was all sorts of problems with Jennifer Hudson but just, for example, she said she was color blind and yet she says it was a blue or green truck.

You know, Steve Fleming, who said he saw a young man in Kristin Smart's dorm several times he said and then he goes, Well, maybe one, but it was several he said before. And then he sees the guy on the second

floor hanging out, he's on the third floor, she's on the first floor. And then they weren't even in the dorms for most of the time at the same time.

And then he had said earlier that -- that he had seen the person there he said was Paul Flores several times. He thought they were dating, okay? But then when he testified he changed it, Well, maybe I just saw him once there but I know because I was doing my laundry, that's why I was there, so I had the ability to see as I was running out there. I even said running out to practice, running out to practice, going -- going by that dorm room I saw -- and in that moment he could see that she was uncomfortable and Paul Flores was a nasty person and all that. You know, you have to look at that realistically.

Now, there are other problems with Fleming's testimony, which we'll get to, but just to use that as an example.

The witness's ability to remember and describe. Fleming could not remember what he said a month ago, let alone last year about this. And he kept say, I don't remember. If he can't remember that, how can he remember all this stuff back in -- in -- back in 1996? Other reasons to question him.

Understand and answer the questions directly. I think on that one, like Cindy Arrington. She was very teacher-like. Even though she wasn't a teacher, she's not a professor, she's a -- got a master's degree and

she does this archaeology gig where they go out and say you can dig here, there's no burial place here, and then she also goes to some places where they know there are burial and they dig up artifacts and that sort of thing. She's only done the forensic thing two -- two other times besides this one.

But she was very much the -- like let me tell you the very -- but then when it came to cross-examination she couldn't answer a question directly, okay? Maybe it was just me. You were -- you were there watching. We'll get back to some of the problems with her testimony. I think Fleming also had problems in that regard and certainly Jennifer Hudson.

Influenced by a factor such as bias, prejudice, personal relationship -- well, you go right to Hudson there with her personal relationship with Goodwin, who was trying to get -- that was the testimony. Mr. Peuvrelle didn't like it so he was telling you, We don't think he was trying to get the reward. Detective Cole said he was trying to get the reward. So there is bias there.

You've got Hudson who's got the personal relationship with him and with others. What you -- and a -- and a strange one was Ronda Doe. So 25 years -- 26 years, all of a sudden Ronda Doe says, Gee, I was just at this bar down at the -- and I didn't know anything and I just -- didn't know this guy and then we had this thing and I think he -- and I don't really

remember what happened and I -- I was raped, okay? I don't know what happened to her but you have to look at her testimony honestly.

On direct examination she said, Oh, I just thought it was Paul Flores because I saw he was arrested and that's what caused me, in 2021, to say something, okay? And then on cross-examination I asked her about an old address that showed up. It was in Arroyo Grande. And then she admitted she went to Cal Poly in 1996 and 1997, but she didn't tell you that and Mr. Peuvrelle didn't bring it out, it only came out on cross-examination. I mean, that's more than a coincidence, okay?

Is there a bias or prejudice or being influenced by something? She goes, Oh, I remember the case but I really didn't pay any attention to it, whereas everybody else that testified said it was all over the place. What a -- what's the likelihood that this was a coincidence and that she really did just discover Paul Flores for the first time when she saw he was arrested and saw his picture on television down in LA? That's what you heard. That was pretty -- that was pretty convincing, let's face it. It sounded -- it sounded good until you found out that she actually was a student at Cal Poly in 1996, at the very time in 1997 when all this publicity went on.

Look at some of the others. So many of the people involved in the prosecution case all these years

later, so many of them were associated with the web page, the Son of Susan run by Dennis Mahon or the Kristin Smart web page. The testimony was that was oriented towards convicting Paul Flores.

Or they talked to, dealt with, were on the podcast with Chris Lambert who was -- Chris Lambert, I think we had testimony he was like seven years-old when this happened in '96 so he's gained his own -- he's inserted himself -- as Detective Cole said about the others, inserted himself into a case that doesn't involve him and has come up with a lot of conspiracy theories. We'll come back to some of the details on that.

Statements that are inconsistent -- consistent or inconsistent, somewhere up there, is one of the things you can look at. You know, one of the things that I -- I just think is remarkable -- and actually Mr. Peuvrelle had the exhibit where it had the circles and the -- and the -- and the initials of Tim Davis on that. Remember -- so you got -- you didn't know it was coming so maybe you didn't really tune into it but what happened was the witness said, Well, I don't know where Paul Flores came from. You don't know where he came from? Did he come from the side of the house? Well, yeah, he could have come from the side of the house. So when he came from the side of the house, was that under the trees and the shadows? Well, I guess it was over here. So when he came from the side of the house under

the trees and the shadows, those kind of questions that were asked to try to bolster something that wasn't there.

Now, this I'm a little irritated about, and forgive me for showing my irritation, but Mr. Peuvrelle knew very well that Tim Davis, in 1996, told Detective Stewart that he saw Paul Flores coming with some guys that were coming from a party across the street. He didn't say Paul Flores was coming from the party but he said the guys were coming from a party across the street and he saw Paul Flores there. Mr. Peuvrelle knew that.

We had to call Detective Stewart for the Defense to tell the truth, because he was retired but he was a police officer who's going to tell the truth. And he did, and he said, Yeah, that's what he told me back then.

So you can't convict somebody on innuendo and you can't convict them based on something that gets manufactured right in front of your eyes, okay?

And -- and I -- I realize I'm confronting Mr. Peuvrelle with that but that is what happened. It's in the record. You can have it read back and see how that developed to being sneaking out of the bushes under the trees -- which, by the way, it was said the trees weren't big like that, they may not have even been there, but idea is turning it into part of his conspiracy theory of sneaking out of the bushes and

watching Kristin Smart where Tim Davis said, No, he was coming up the street with the other people from the other side. So those are inconsistent statements and that inconsistent statement the law says you can consider that for the truth of the matter.

The fact that he said it to Detective Stewart, you can consider that to be true if you believe it to be true. And, of course, it was said much closer to the time when everything happened and it was said before Tim Davis was interviewed a dozen times, or however many times it was, several times by Mr. Camp from the DA's office, by Mr. Peuvrelle, and by others before that. When he was first asked that's what he said.

And I think that's -- that's why when you look at the credibility of witnesses and it says you can consider consistent or inconsistent statements, that's a pretty significant one.

All right. And then this is the one about the publicity -- I knew I had it somewhere so it was a little bit -- in my mind was out of order, it was probably in order, but you're told in 226, which is the instruction on consider anything that reasonably tends to prove or disprove the truth or accuracy of a witness's testimony, and 315 -- so this would include that, but 315 specifically called out for identity that you can consider publicity. But you can obviously consider publicity affecting somebody's testimony.

So -- all right. So let's look at some of

these factors just a little more detail. I know every time I say that you're thinking I wish he wouldn't say that, I wish he'd say I'm done, but I have to do my job here. This is very important and -- and I really want to give you all the information I can to work with. But, again, remember, you are the triers of the facts so you have to look at the evidence and see what is proven, what's proven beyond a reasonable doubt, and follow the law.

So carrying on with my guidance best I can here, what do we know about this? This is -- really the elephant in the room is all this publicity and all these people that were inserting themselves. And I mentioned Dennis Mahon; Chris Lambert, the podcaster; Justin Goodwin; their website Son of Susan; Justice for Kristin Smart, oriented towards prosecute -- convicting Paul Flores. There's Your Own Backyard, which we heard, Oh, well, maybe it wasn't really biased but yet it was -- had a podcast. Son of Susan was one of the titles, another was The Only Suspect, and a bunch of other things.

We also heard True Crimes With Aphrodite Jones, who you might or might not know is sort of a fringe TV personality. I think it was Mr. Boelter who actually participated in a couple of her productions.

And then we had -- we heard about the shows -- and we didn't get them all out. I think there was 48 Hours, Dateline, and America's Most Wanted I think

were the three that were mentioned, but there was clearly national television as well as local television coverage as well as newspapers. So a lot of this had an influence on the testimony and we will see that.

Certainly, Jennifer Hudson is just bizarre. She goes to the Century 21 guy and Chris Lambert and Goodwin and they go out sleuthing around, trying to build up a story for her, which apparently now you're supposed to say you're not going to believe that.

I mean, look at the standard that's applied to things my client said when he was 19 years-old and he's being pummeled by police officers and he was talked to nicely and then towards the end you've got these speeches by the police officers. He admitted they were lying to him in part because they could do that --

MR. PEUVRELLE: Objection, your Honor.

MR. SANGER: They admitted to it.

MR. PEUVRELLE: No. Objection, your Honor.

THE COURT: All right. Overruled. Continue, please.

MR. SANGER: Yeah, I'm pretty sure so -- that they used the technique of lying to the defendant --

MR. PEUVRELLE: Objection, your Honor. Not in evidence.

THE COURT: All right. Overruled. You may continue.

MR. SANGER: Okay. You can -- you can see if that was the case or not. And you -- you heard the

little closing argument the police officer gave and then Mr. Peuvrelle said, See, they had that evidence. Well, no. The fact the cop said that is not evidence. You have to have the evidence, the actual evidence.

So in any event, whatever it was they're leaning on him and we heard it was an interrogation and all those sort of things. But anyway, he's judged for saying certain things, which we'll get to, and we're going to let -- the Prosecution's going to let Jennifer Hudson say her final version that he said he was burying her at a skate ramp out in Huasna after she's influenced by all these people and she doesn't show up for the meetings with Detective Cole until she can have some more discussions. She said in one case, Oh, I just got through talking to Chris Lambert. He said not to tell you all the things he did to influence her testimony, the drone and all those other things. So there's good reason that those things are up there.

And we noticed -- and this Exhibit 606 is up there. We noticed that a number of people were subscribing to this web page, the Justice for Kristin, and there's the hand and all that sort of thing. And that's nice. You know, there's solidarity and that sort of thing, but it's not nice when there's solidarity, We've got to get Paul Flores.

And one of the things you notice was up at the top there there's an alarm clock on this. And when you first saw it you probably didn't know what it was for

and it turns out that Justin Goodwin was one of the -- the moderators. I just cropped this because we had cut out some of the other -- some of the names. It was a full page and I didn't have a copy with the names cut out so I just cropped the little part in the middle, but you can look at the whole page.

This is Justin Goodwin. And forgive my language, "Tick Tock motherfucker." And the "motherfucker" he's talking about is Paul Flores because they are after Paul Flores. "Tick tock," time is running out. He's looking for his reward. He's now part of this web page, he's part of the Dennis Mahon, Chris Lambert crusade to convict Paul Flores.

THE COURT: Mr. Sanger --

MR. SANGER: Yes.

THE COURT: -- would this perhaps be a good time to take our afternoon recess?

MR. SANGER: Since you said so, certainly.

THE COURT: All right. Ladies and gentlemen, we are going to take a 15-minute recess.

Remember, do not talk about the case or about any of the people or any subject involved in it with anyone, including the other jurors.

Do not make up your mind about the verdict or any issue until after you've discussed the case with the other jurors during deliberations.

We'll see you back here at 3:15.

(A recess is taken. Certified Shorthand

Reporter Helyn Johnson replaces Stefani Cortopassi for the remainder of the afternoon session.)

STATE OF CALIFORNIA )
)ss.
COUNTY OF MONTEREY )

I, STEFANI CORTOPASSI, Official Reporter of the County of Monterey, State of California, do hereby certify that the foregoing pages, 1 - 111, comprise a full, true, and correct transcription of my stenographic notes in the aforementioned case of the closing arguments held on October 3, 2022.

Dated November 22, 2022.

Stefani Cortopassi
STEFANI CORTOPASSI, C.S.R. 11993