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 4, 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 4, 2022

PROCEEDINGS

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.

And where we left off was with you, Mr. Sanger, whenever you're ready to proceed.

MR. SANGER: Thank you, your Honor. Okay. Good morning.

So we left off at a certain point and then there was a juror question. And I think it's fair to say we all -- I don't think we've ever had juror questions during argument, okay.

So it was a question of whether or not to address it but I thought it should, without encouraging people to send questions. And the reason I say that is it is a good object lesson for all of us; and that is, remember that when the lawyers are arguing, either Mr. Peuvrelle or myself, this isn't evidence, we're just trying to guide you to things that we think are important in the evidence and we may or may not be right about what we said, okay?

But it was -- it's kind of like you can't -- can't unring the bell. Once I saw the question I had to go check my notes. So I'll tell you what the question

was. One of you know what it is, but it doesn't matter who it was. In fact, I don't know who it was. But one of you asked the question and I think we just have to answer it because it is a good object lesson in this.

So the question was about the testimony of Adela Morris. And I checked my notes and I had it on here and now, of course, it has disappeared behind a code. Let me get that out. Okay. So it's been about the testimony of Adela Morris. And my understanding and what I had in my argument was that she said, Dogs could alert on vomit, okay?

And so, the question was was that really right and can we check the transcript?

So the first thing, since it's an object lesson and we're hoping there will be no questions for either of us -- no offense, but this is your job from here on out is to go back and deliberate and usually if the 12 of you deliberate you'll figure out what the answer is.

It's not majority rule. Maybe you'll still disagree. You can always ask the court reporter to read things back. It's not -- and the court reporter would be happy to do it. I'm not trying to encourage you to do that either. I mean, you just have to decide one way or the other, but it's up to you entirely is the whole point.

However, since that was asked, the question was, I think I said, She said the dogs could alert on vomit and the question was, Was that really the

testimony? So I looked back at my notes and I think the juror, whoever asked the question, is probably right that she said something like -- in my notes were something like, "I don't know. That's a good question. I don't recall ever training on that. I have a feeling about it, but I can't remember actually" -- I can't read what that says but "actually practicing that." That was what it was. "Actually practicing that." So some words to that affect, okay?

And it's up to you. That's not an official reading of anything other than just my notes. So I took from that and I put in my summary notes that dogs could alert, it hasn't been ruled out. I'm not trying to justify what I said. I could have been more precise if I remembered it more precisely. I remembered it as, yeah, that's something that could happen.

Now, I really want to take it one step farther. So as far as that is concerned that is something, just like anything else, if you have a question, talk about it when you're in deliberations only, when all 12 of you are together, but if you can't decide and you want to have a read back, you can always do that.

Having said that, let's just talk now about the substance of the matter with Adela Morris. And I think I already pointed this out. The -- oh, I think I -- sorry, I didn't mean to leave that up there. I hit the wrong button. I think that's the one I want to leave up.

The defendant doesn't have to prove anything. It's not a matter that we have to come up with a theory and then you compare our theory to the Prosecution's theory. You have to decide whether or not the Prosecution has proven the case beyond a reasonable doubt and we can rest on the state of the evidence, which we did for the most part.

We did call Detective Cole, Detective Stewart, we called Brent Moon, and then we called a couple of experts on the burial and blood issues, which we'll get to.

But it's up to the Prosecution, you know. And you have to look at it and you have to say, Look, the Prosecution knew that Paul Flores had said he'd gone back to his room and he threw up a little bit, I think was the quote from the police officer, and they knew that was a factor.

And they had a dog handling expert come in and -- and testify to things. We know they're false alerts. They're a little reluctant to agree as to why and when it happens or how often it happens. We've seen the false alerts in this case but the Prosecution puts on the case with a dog handler who says, you know, I don't know. That's a good question.

It -- it does seem to leave something that needs to be answered. And -- but it doesn't have to be answered by us, it has to be answered by the Prosecution. If it leaves you with a doubt, that's the

way it is. We don't have to come back and fix it.

It may seem unfair but it's not unfair. This is the way our system works in this country and going back beyond that, back to the law of England for that matter, but it's certainly in this country, the entire time the United States has been around, and each state this has been the standard is that if you're accused of a crime you don't have to come and prove that you're not guilty or come up with other explanations, the People have to prove it.

So in that regard I think the answer was -- is that the question that's left by the Prosecution's own witness is a legitimate question.

And quite frankly, given everything that was said, they didn't know what volatile organic compounds were emitted. In other words, what were the gases that went into the air? They didn't know the answer to that.

We were expecting perhaps to see a chemist or somebody from the -- from the Prosecution's side to show what this was all about and why do dogs alert sometimes falsely, why do they alert correctly when they find a body or something there, and we didn't hear that. And we didn't hear evidence as to what constitutes the organic compound that releases the volatile gases that are in the air that a dog can smell, if that's what they're reacting to at all.

So I appreciate the question and I think the -- the point I really want to make is whatever we say, we

say in good faith, I hope, but ultimately it's your job, and sort of a tough one, to sit down after all these weeks of trial and try to figure out what this is all about.

Let me go back to where I intended to be and see if we can wrap that up. Sorry. That's the dog -- sorry. Trying to get back to it. I finished talking about the dog alerts.

I tried to make it quick there with regard to Black and Atkinson but you remember where those dogs went with their conflicting behaviors.

All right. And I think where I was going to go next, as I indicated, let's talk about the witnesses. And let's start with the other acts witnesses. Okay. And so, we have the uncharged acts. And I want to talk about in a little more detail -- I hit it briefly when I was responding to some of Mr. Peuvrelle's comments but let's talk about it in a little more detail right now because, first of all, the Other Acts Evidence -- or the uncharged acts -- it's also called "other acts" but we're using the terms "uncharged acts" here so I want to use the same term.

Uncharged acts evidence is a little weird. And I think Mr. Peuvrelle said it was convoluted or something like that but -- yeah. And what it -- what it does is if there's evidence, if there's proof of a sex offense, an actual sex offense, a rape or attempted rape in this case, which the People actually alleged in their

Complaint, that's what happened, if there's evidence of that, then you can look at some uncharged acts.

MR. PEUVRELLE: Objection. Misstates the law.

MR. SANGER: We'll get to that. That is the law.

THE COURT: All right. So overruled. Ladies and gentlemen, this is argument so if anything conflicts with the law that I gave you, you are to follow my law.

Mr. Sanger.

MR. SANGER: Okay. I think it's right up there so it's caused me to take it out of order, but all right.

It says, "Do not consider this evidence for any other purpose." I was going to talk about the purpose but we'll get back to it. It says, "If you find it was not proven beyond a reasonable doubt that Paul Flores raped or attempted to rape Kristin Smart, you must disregard all of the testimony of the uncharged acts as irrelevant when determining if Paul Flores is guilty of murder."

So Paul Flores is charged with murder, he's not charged with rape or attempted rape. That's an allegation. It's very complicated but it's -- it is but it isn't, okay?

The allegation that you're looking at and the instructions that you will get and the verdict forms that you will get say that the one count alleged against Paul Flores is that he committed murder and then there's

this allegation that the People put in there that it was in the course of a rape or attempted rape.

MR. PEUVRELLE: Objection, your Honor. Misstates the verdict form, misstates the Complaint.

MR. SANGER: That's what the Complaint says.

THE COURT: Overruled. You may proceed.

MR. SANGER: Actually, it's an Information, but same thing as a Complaint.

So what you have to decide in this case is whether or not Paul Flores committed murder.

The allegation of rape or attempted rape does a couple things. One, if you found that to be true, that might be a basis to make it first degree murder, but you still have to have a murder before you even get there, okay?

And the other thing it does is it allowed Mr. Peuvrelle to find these other people and put them up who say that they had unconsented to sexual encounter with Paul Flores, okay?

But it says up there, and this is the Instruction 375, you'll have it, If you find it's not proven beyond a reasonable doubt that Paul Flores raped or attempted to rape Kristin Smart, you must disregard all this testimony.

That's why it's kind of weird because this is only brought in if you find that there's a rape, okay, of Kristin Smart. And there's absolutely no evidence of that. Right?

So -- and you remember the attempted rape. I think we talked about that. The attempted rape, I don't have a slide on it, you'll have the actual instructions -- or maybe I do have a slide, I can't remember -- oh, I read it to you. That's right. I don't have a slide but I read it to you, you'll have the actual instructions. It requires an actual act that, but for being interrupted, would have been a rape. So somebody comes in and interrupts you, there's screaming and somebody comes to somebody's aid, you know.

Anyway, so let's go back to what I was talking about, or was trying to talk about here to start with, is what is this offered for?

Well, Mr. Peuvrelle used it to just say as many times as he could Paul Flores is a rapist and a rapist does this and he's a predator and all that sort of thing. You can't consider it unless there's proof of a rape, okay?

There's alleged, he gets to bring it in, but you can't consider unless there's evidence beyond a reasonable doubt of a rape of Kristin Smart.

Okay. And that's the instruction. You look at it, it explains it carefully. A lot of these instructions are longer and there's other pages of other instructions. You should read everything. Once again, I'm not trying to mislead, I'm just giving you the things that I think are important at this point and you can go on.

Now, having said that, we, I think -- I -- I briefly discussed this in response to the opening argument by Mr. Peuvrelle but I'm going to go over it again so -- and with a little more detail.

So the two Doe witnesses come in to testify. If they are telling the truth and that's really what happened and Paul Flores took advantage of them in whatever years they were -- I had I think one was 2012 and the other was something else, much more recent. If Paul Flores took advantage of them, that's wrong, that's bad. If they could prove it, that's a crime and he could be convicted of it.

That's not your job. This is what's called uncharged acts and can only be applied under the circumstances of Instruction 375.

Mr. Peuvrelle has made as much as he could out of it -- and I must say that, again, when you remember how these people came forward and what happened it -- it sounded really bad to start with -- I mean, if the acts occurred the way they did that's bad, okay?

But all of a sudden we find out that Ronda Doe actually was there at Cal Poly and had all this publicity and knew all about this stuff and later comes forward and goes, Oh, by the way, I saw him on television so -- he was just arrested so I thought I'd come forward now and tell you, by the way, he did this untoward, terrible act to me, I was unconscious. She said she might have had sex with him anyway but she

didn't want to do it that way. Is that true? I don't know.

They talk about a ball gag and you have this ball gag evidence. And, you know, it's a sex toy and it may be disgusting to a lot of people or it may be unusual or nobody knows what it is or some people may know what it is, but it's a sex toy. It doesn't -- doesn't make somebody guilty of that.

They have that picture of a woman with a ball gag in her mouth that does resemble the ball gag that was testified to by these two people but where did they get their information? Did it really happen? They said they didn't remember anything but they remember that. They were exposed to the media. And we're talking about 25 years.

And here we have Ronda Doe come forward and go, Gee, out of the blue, what a coincidence. I looked up and I go, my goodness, that's the guy from the news. And she said -- I think it was KTLA or some LA channel where she said, oh, out of the blue, and then it turns out no, she was there in '96 and '97 with everybody else, looking at those posters, well aware of the publicity. That's too much of a coincidence.

So what happened? We don't know but it's -- we don't have to prove what happened but you have to look at it rationally and say can we really depend on that evidence, okay?

And I -- I want to make it clear, you know, if

that really happened the way she said it happened, that would be a crime; all right?

But there's a real reason to ask why she didn't tell anybody or if she did why it wasn't given to you up front that she was out there in 1996, all those years before, right in the middle of this where Paul Flores' picture is up on the -- on the posters and there's all this publicity.

All right. And she didn't -- and I -- I don't want to spend too much time. I believe she was also the one who described the houses being by the railroad tracks and it was a couple blocks away. And Mr. Camp -- Investigator Camp from the DA's office went down and worked with her and eventually she looks at the house that was, in fact, Paul Flores' house and says, That must be it. Yeah, I remember the driveway. Well, there's that whole escarpment there where there's a whole bunch of houses that are along there like that, but that's all right.

But you can't just pick the facts you like or allow the Prosecutor to pick the facts that he likes and say, Okay, this was proven. You have to look at it critically. That's what you're doing. She -- she went across railroad tracks for blocks and blocks if that, in fact, is what she did and really went to his house.

Who knows what she was influenced by because we know that there's all these rumors and pictures and everything that are out there on the Internet and

witnesses, after all these years, are quite likely to be exposed to them and we know that she was exposed to it from 1996 on.

And then we look at Sarah Doe. Now, Sarah Doe was, again, you know, sympathetic, I think more sympathetic sort of a witness. And she said on direct, Yeah, gee, it was -- it was in 2011 or 2012. And she wanted it in 2011 but then it turned out she was 23 she said, so she was 23 in 2012. Why is this important? Because when she was interviewed she said it was nine years prior and nine years prior was 2012.

And why is that important? Because I showed her her Facebook or whatever those things are. Sorry about that. I'm too old. I should stop doing this if I can't get the media right but it was some sort of social media and she had her pictures and she admitted that almost all her pictures had to do with drinking, even -- even now.

But back in 2012, February of 2012, she posted pictures of herself with all sorts of bruises. And we didn't show them to you because -- in fact, the Prosecutor could have if he wanted to but we didn't show them because we didn't want to, you know, just embarrass her or put her body out there with bruises. And there was a lot of other stuff in her web page or whatever that page, Facebook page, I think.

The point of the story is that she posted pictures, February of 2012, she testified to it, of

bruises and she said she got the bruises from an encounter with some other people, who she named, she named the person, and I think she said, Oh, they're something about family members or there was more than one person or something.

She didn't post bruises of, Oh, I had an encounter with some guy, she didn't go to the police and try to report it, she didn't do anything until nine years later when this case is now coming towards trial and then she's -- she is interviewed by Mr. Camp for the DA and she's brought in here to testify.

You know, did they know she had a Facebook? I assume they had found her Facebook page or whatever those pages were that we had. They're open to the public, it was no big secret, and yet she's put up as a witness and you go, Oh, my God and you start to buy into this thing, Well, Paul Flores is a rapist. Well, is that true?

Is that true that Ronda, who didn't bother to tell anybody, or did and the Prosecute didn't tell anybody, that she was out there in 1996 during this whole thing, living in Grover Beach, and going to Cal Poly?

Is that true that Sarah Doe comes back all these years later and says, Yeah, I was bruised and really in her Facebook pages nine years prior she's posting pictures of herself bruised and claims it was somebody else that did it?

So you have to look at those. And those are the two uncharged acts that were brought before you.

So, again, understand, I'm not excusing bad behavior. If there really was bad behavior, there was bad behavior. But it -- I don't think it was what it was represented to start with.

And then you can't even consider -- even if you decided that those two witnesses weren't influenced by the media, weren't influenced by the posting back in '96 or the media that was occurring or the podcast or anybody else before they came forward, including about ball gags -- I mean, you know, who knows what's out there on that, all the rumors with regard to -- to this case and Paul Flores, with all of that, even if you believe that that was the case, you still can't use it in this case because there's no proof beyond a reasonable doubt that Paul Flores raped or attempted to rape Kristin Smart. There just isn't.

All right. So let's go back -- I hate to say "back" because everybody shutters when I say that but we're going to go through this. Let's go back to -- oh, there was one more on the ball gag just to --want to put that up there that -- so the ball gag is like a separate thing that's -- that's not offered to you as an uncharged act. It's not saying that whatever -- however that picture was created showed that there was any sex offense or anything else. It's not offered for that purpose.

In fact, it's just offered for the purpose to say on Paul Flores' computer there was a picture of a woman with a ball gag and it looks similar to the ball gag that was described -- or at least the other witnesses said it was a red ball gag. Quite frankly, I don't know what color ball gags come in but that was offered and it was offered to show that -- that Paul Flores probably had a ball gag at some time in recent history, because this is from recent computer, not from '96 or anything else.

So this gets a little weirder but this particular instruction, you've got to really follow the law to do your job here, it was -- the ball gag was admitted only for the limited purpose of establishing, if it does, that Mr. Paul Flores possessed a ball gag and therefore you must consider it only for that limited purpose and not for any other purpose.

You can't speculate about what -- how that picture was taken or why it was taken or anything else, it was offered only to show that -- that Paul Flores had a picture of a ball gag. And if you believe that the picture showed that he did have one, which it's on his computer, you can consider it only for that purpose but not as another uncharged act, just that he had a ball gag.

Now, the question is how many other people knew that information about ball gags and what was out there? Who knows?

But let's go to the -- what did I do? Yeah. Let's go to the other witnesses. And I'm just putting up the same slide about credibility because you -- you need to remember that -- I say, "You need to." You're the jurors, you can do what you want, but following the instructions these are common sense things that -- that you need to look at with regard to witnesses.

So we've heard discussions about witnesses. I'm not going to go over witnesses' testimony and what they said. You were here, you heard it. You may have heard it better than I did. I think one of the jurors demonstrated that at least with regard to Adela Morris, but I just want to hit some of the high points, okay? And I'll try to sort of summarize some of the testimony so we can move on without going into a lot of detail.

So what do we know about the witnesses, the young women in the dorms? So we know that there -- and understandably, that the young women in the dorms were talking about what they saw or what they believe they saw or what they heard. They -- they had a lot of time to talk about it together. They had meetings. You remember there was some testimony there was a hall-wide meeting in one of the halls and they -- they talked back and forth. And they started speculating about things like Paul Flores and other things because that was what was going on at the time.

They were interviewed then, they were interviewed many times. They were prepped, the District

Attorney's office talk to them, they came in, and they testified.

But what do we know? We know that -- what do we know? We don't know anything but we have some evidence. You can decide whether or not it's persuasive.

But I think it was pretty clear that Kristin Smart was hanging out with the other girls to a certain extent. She was not as close to these -- I'm saying "girls." I shouldn't say that. Young women. She was not as close to some of the young women in the dorm as they were with each other. There -- she came there late you recall, after the first of the year, and she lived someplace before that off campus.

And she -- the -- the witnesses were saying Kristin (sic) Calvin and others were getting together and they were trying to decide where to go and Kristin Smart didn't want to go with them to their party so she went with a couple of other her friends. And then you recall she decided to go off on her own and ended up at the party -- at the Crandall Way party, okay? Now, in general that's fine. We know she went to the party.

We know that she was very tall and dressed in a way that she -- people would remember her. And so, there were a lot of people that said they remembered what Kristin Smart was doing and they were pretty consistent in what she was doing, kissing guys, making comments, went into the bathroom with Ted (sic) Boelter,

things like that.

After the fact there were people asked, Well, what about Paul Flores? Nobody really knew Paul Flores. He was just this freshman guy and he was -- there's nothing about him that stood out that would cause people to say, like they did with -- with Kristin Smart, they're saying she's Roxy, going up to everybody, introducing herself, and really being a presence, nothing really about him.

And some people -- you recall Mr. Peuvrelle said, Well, Ted (sic) Boelter said that; but remember, Ted (sic) Boelter, for instance, said that he wasn't sure that it was Paul Flores and he had gone through some iterations. We'll get to that in a second.

We know in general, or we've heard the evidence in general, that Kristin Smart was at the party, she's eventually laying out in the -- outside, she eventually get up, she goes back towards the dorm, and she's left by Paul Flores. She's (sic) consistently said to everybody at all times for years, decades, despite all sorts of law enforcement procedures, that's the last time he sees her. What did she do?

There's no evidence of a murder, there's no evidence of a rape. Mr. Peuvrelle wants you to assume that things happened or just gloss over it. The fact is this case was not prosecuted for all these years because there was no evidence and there's still no evidence.

They got -- they got Jennifer Hudson to come

forward and say something. They thought they had Stone saying something and it turns out Stone said something else, but other than that there's really no evidence in this case of a rape or a murder and there hasn't been.

It's clear Kristin Smart disappeared in one sense or another. She could have gone out and decided she wanted a different life but, I agree, it's a sad story and one would think she would have popped up by now. There are those cases where that happens. But, you know, I think that's a sad but probable fact, not proven beyond a reasonable doubt. It's not proven she's murdered but it's probable that she's -- that something happened to her that was unfortunate. But what was it?

And we know from the evidence we have from Felipe Arias that if she went to the room and there's a guy in the room she would go stay at his house -- at his dorm, which is another dorm up the road. He says he didn't get there -- she didn't get there that night but did she go someplace else? To somebody else's room? Was she wandering around? What was she doing? We don't know. And so, you can't fill in the blank when you don't know and say I know because that's not the way this works.

So let's go to some particular statements that were made. And, again, I'm not going to -- I'm not going to go through these -- I'm going to do it pretty quickly, so forgive me. And you all are the judges of the facts so you'll have your notes and your

recollection.

Vanessa Shields. Mr. Peuvrelle talked about that. But she was interviewed by the FBI after Kristin Smart went missing and she didn't say anything to the FBI about Paul Flores. She said at some point she didn't know Paul Flores by name but later got to know who he was. She did see flyers about Paul Flores and pictures in the media. She was contacted by Unsolved Mysteries. I think I left that off my list of television shows and whatnot.

And she was first interviewed by law enforcement in February of 2022. So the law enforcement comes -- or in this case I think it was the DA's investigator comes forward with -- with this witness just before this trial and that's the first time she mentions Paul Flores. She does say, however, that she never saw Paul Flores at the -- at the Muir dorm, but now she's saying she saw Paul Flores. So you have to look at that and look at the credibility of the witness.

And you may recall there was another slide that -- 226. If you read it in conjunction with the one about eye witness ID it specifically talks about the effect of publicity. This in general says any factor but that specifically talks about the effects of publicity.

So what are the effects of what she saw, the flyers and everything else, the Unsolved Mysteries, first interviewed February 7 of 2022, the first time she

mentions Paul Flores.

You got to -- you know, this case has been around a long time, there's a lot of coincidences, lots of things that can be brought together at the end of the day but you have to decide if they add up.

Margarita Campos. We heard about her testimony. That's fine. She posted on the Justice for Kristin page, which is dedicated to convicting Paul Flores, and she also appeared on Chris Lambert's podcast. So she not only talked with Chris Lambert and whatever he was -- information he was giving, but she also appeared on his podcast. Does that affect the ability to perceive and recollect, the ability to actually come in -- you know, people, I'm not saying anybody's getting up here and lying, they may really believe it by now, but all of this time and all of this talk about Paul Flores and all of these web pages, Dennis Mahon web page, Chris Lambert podcast, Aphrodite shows, all these other shows, it -- it has an effect on witnesses.

Crystal Calvin. She never saw -- this is interesting because Crystal Calvin, remember, was the roommate of Kristin Smart when she moved into the dorms; right? She was the roommate in the dorms.

You can't just pick the things you like that fit the Prosecution's theory. You have to decide if the Prosecutor proved it beyond a reasonable doubt. And if there are things that are left out of his narrative or

things that you need to think about with regard to the narrative, I think it's very important.

Crystal Calvin said she never saw Paul Flores around Kristin Smart, she never saw Paul Flores in Kristin Smart's dorm room -- in their dorm room, okay? So this hunting thing, her own roommate doesn't back up this hunting thing. There's no hunting, but the fact that it's characterized that way is really contrary to a lot of the facts. And that really has significance when you look at Steve Fleming's testimony, which we'll get to.

She also confirmed what Felipe Arias said that when there was -- I think she used the word a "boy" in the room but whatever word she used, a young man or a boy in the room, if there was a male in the room, let's go with that, she said Kristin Smart would likely go somewhere else.

And then she also said -- so we're really trying to figure out what happened there. She also said that she did not make arrangements with Kristin Smart to have Jana Schrock stay there; that Kristin went off with a couple of friends in one direction, they all went another place, they came back, and Crystal Calvin -- again, I'm using their names back in the day -- Crystal Calvin decided that she was going to stay with her boyfriend in another dorm and her friend, who came to visit her from out of town, who didn't go to Cal Poly, Jana Schrock, said -- they decided that she would stay

in the dorm room, in that room, and sleep in Crystal Calvin's bed.

And then we all know that Ted Munley came along and there's a whole story about Ted Munley knocking on the window of Jana -- not Jana, of Phipps, whatever her first name was, sorry, no offense to her, knocking on the window and then went around to the other side of the dorm and knocked on the window and got Schrock to come out with him, eventually let him in the room, and let him sleep on the floor but she was so out of it that she wakes up at nine o'clock in the morning and Munley is in bed with her.

And she said she didn't like the guy. She had some very specific words about it. Mr. Peuvrelle said "her good friend" or something like that and that wasn't her testimony.

And she admitted that she was -- if -- if Kristin Smart had come into the room and knocked on -- and knocked on the door or come -- or came into the room and turned the lights on I think were her words she probably would have noticed it.

But she also said what? They're on the first floor. She said the blinds were up, because that's how she could see Munley out there, the blinds were up. And if she's in the room, thinking she's allowing Ted Munley to sleep on the floor and he's actually in bed with her, and Kristin Smart comes home and -- and sees that through the window, she's going to go someplace else.

That's what she said, that's what Kristin -- Crystal Calvin said, that's what Felipe Arias said, she would go someplace else.

So did she? Did she go someplace? Those are reasonable questions to ask. We don't have to prove that. We don't have to prove anything. In fact, you can't prove a negative. That's the reason that the law is set up this way. The People have to prove a murder or a rape or attempted rape. They've got to prove that beyond a reasonable doubt and they haven't.

Now, it takes us to the overzealous, as I characterize it, Steve Fleming. Mr. Peuvrelle said, yes, he was very emotional. There was something wrong to Steve Fleming. You get to evaluate the testimony of the witness. He was a police officer, he had -- didn't quite do his 20 years. I think he said he did 16 years as a police officer, something like that. But whatever he did, he eventually admitted that he was -- he was -- when he was interviewed by, I think it was Detective -- or Investigator Camp that -- or it might have been Cole, but whoever he was interviewed by, on tape he used the F word a lot and he said he wants to get that fucker, excuse my language, called Paul Flores a "fucking creep," okay, in 2021. And yet, as emotional as he was and as he's tied this into his life story after 25 years, what's the truth about Steve Fleming, okay?

Think about it. You can't just go I liked that part that he broke down, he said Kristin -- you know,

Kristin Smart was my good friend, I let her down or something. What's -- what really happened here? He didn't say a word for three years.

He says, Oh, well, I was scared of police, okay? I understand. Believe me, I understand that there's all sorts of issues with regard to police officers and people of color and other people, we don't have to get specific, but he was making the point that he said, Look at me, you know, I'm black basically, I'm scared of police, except he's this giant guy and he wasn't really scared of police.

And when he finally was talked to by the police he gave a statement that was different than what he said on the stand, but he gave a statement and then he asked the FBI agent to help him get a job as an FBI agent. And then he said the FBI agent said, Well, you know, a good thing for you to do would be go in the military first and then that would give you a better chance to get a job as an FBI agent. He actually asked -- he wants to be a police officer, you know, so I don't know. That doesn't square.

But what doesn't square is that if this was really his friend, with some of this, you know -- I don't mean to make fun of him but this is just wrong. If that was the case why would he wait until the FBI came to him to make any statement at all?

And then he doesn't actually make a real statement, that was just a brief statement to the FBI.

He doesn't make a real statement until 2021 when he talks to the officers. And, again, I can't recall if it was -- if it was Investigator Camp or Detective Cole but one or the other or maybe both of them and then he goes into his rant with the F word and he wants to get the fucking creep, excuse my language.

But he's so excited about getting the f-ing creep he didn't actually know who Paul Flores was. He says that there's this creep who's around the dorms. He was on the second floor. Well, take a look at the -- what's he doing on the second floor? He lives on the third floor. And he says, Well, I do my laundry on the first floor. Okay. That's how I can see Kristin Smart. Okay. What's he doing on the second floor?

He says that he's got this whole thing he -- now, again, the testimony gets shifted as we get closer to trial sometimes. And his testimony was, Well, maybe I just saw him in -- saw Paul Flores in there one time in Kristin Smart's room. Okay. That's one more time that anybody else ever saw, including her roommate, but he had previously said, I saw him in there several times and he said, I thought they were dating, okay?

Now, you can't have it both ways. You can't just pick the one you like, like, Oh, Paul Flores is being a creep and I can tell as I ran out the door -- remember he said, "Well, I did my laundry but I ran out that door so I could go to practice and I looked over and I saw this. And how long did that last? And he

creates this whole story about, I could see Paul Flores is in there and she didn't want him in there and she was too nice to -- to say no and all this -- what? How would you perceive that running by the door?

But more importantly, nobody ever saw Paul Flores in the Muir dorm, not a single other witness, including her close friends, including her roommate.

And what happens? Now does he believes this? I don't know, maybe he does. But he admitted that when he was talking about the -- the creep that was hanging around he said that -- that guy I think got reported to the -- to the resident's assistant, and there's no evidence Paul Flores was ever referred to a resident assistant.

And he says, Yeah, I can't be a hundred percent sure it was Paul Flores. And he volunteered that. You heard the quote. He said, I can't be a hundred percent sure. Well, is he just hedging his bets, like morally in his mind he's worried that he's said too much and he's -- he's claiming too much? Is he worried about perjury? I don't know. He can't be a hundred percent sure.

Well, yeah, he can't be a hundred percent sure because it wasn't Paul Flores; otherwise, Margarita Campos, Crystal Calvin, all these other people, Jana -- Jennifer Phipps and these other witnesses and these other people that lived around Kristin Smart would have -- would have seen Paul Flores around someplace. So

he's just an out liar.

And trying to make this into hunting and hanging around Muir dorm, you can't be convinced of that beyond a reasonable doubt. The People have to prove it beyond a reasonable doubt if they're going to ask you to rely upon it as some sort of evidence.

Now, it doesn't prove a rape or a murder, that's still why you should just decide not guilty and go home, but the -- and I don't mean to make light of it but, I mean, seriously. But if this circumstantial evidence counts for something they still have to prove a crime. But if it's going to count for anything, you've got to look at it and see if they've proved the underlying facts beyond a reasonable doubt.

Did they prove Paul Flores hung around the dorms and was hunting? No. All the witnesses say no, except Steve Fleming. And then he says, I'm not a hundred percent sure and he's got this whole story that he backs down from and clearly expressed his bias or prejudice, which is one of the issues that you have to look at.

And, of course, he admitted that there was publicity rumors around campus and he eventually said, Yeah, it was everywhere around campus. And then he wanted to say, Well, you know, I was -- I'm playing basketball. So anything that didn't -- anything that he didn't want to talk about he applied to playing basketball and he didn't really know.

Did he know -- did he even know Kristin Smart? He said he really got to know her -- or he got to know her when he was in the dorms but it turns out she didn't come to the dorms until after the first of the year. That sort of went back and forth. And then he -- he was out of the dorms himself because of the roommate problem, remember that, and he came back. And he said it was in March and then he kept, as Mr. Peuvrelle asked him, Well, it could have been late February, it could have been March. So in late February when you -- no, he had said March. I don't know.

How close was he? Nobody else said they ever saw -- they ever saw Steve Fleming there, hanging around Kristin Smart, not a single other person. Probably would have stood out based on what -- what he said himself. He was a big, tall guy.

All right. So then we go to the party witnesses. And again, I just can't say it enough. I mean, I'm not here to embarrass Kristin Smart or be unkind to her family or anything else, okay? That's not our job, that's not your job, but the Prosecution brought these witnesses out and they put it in front of you and it's evidence in front of you so we can't just say, you know, we can't comment on it.

So we know Kendra Koed. She was at the party. There was this talk about, Well, Roxy drunk or not. Several people said she was really drunk and she -- you know, we heard the sloppy kisses, you heard everything

else. Mr. Peuvrelle wants to say, No, she wasn't drunk because Ted (sic) Boelter had said he didn't remember an odor of alcohol when he kissed her. That doesn't prove she wasn't drunk, not remembering when people are talking about things.

Kendra Koed said not only was there booze at the party but a friend of hers brought a -- or one girl had her own bottle of she thought it was Bacardi, some sort of hard liquor and she said she thought it was Bacardi.

She saw the girl named Roxy, didn't know it was Kristin Smart until afterwards when it turned out she was missing. She didn't see Kristin Smart fall to the floor but she saw Paul Flores and others trying to help her up.

She did not know who Paul Flores was until there was publicity and then went back and thought about it.

She followed the podcast, Instagram, and other social media. She spoke with Chris Lambert. And we know Chris Lambert gave information to people and he had rumors on his podcast. And she eventually agreed that Chris Lambert's bias in his podcast was that Paul Flores was the only suspect.

And what? She didn't come forward until Dennis Mahon had -- had contacted her.

So was she at a party? Was Roxy at the party? She seemed to have some information about that. How has

her recollection been affected by other rumors and -- and she didn't know Paul Flores. How's it been affected that she even saw Paul Flores there? Did she know who he was?

Some other just guy, freshman guy, hanging around a party, some people say playing pool, which we all know he liked to do from the other testimony. Is he playing pool? Is he at the bar? Is he around over here? Is he at the bathroom? Is he out back? Is he doing -- what's he doing?

There's too many conflicts and I think people are putting things together. They may believe it, it may be good faith, but you're the jury and you have to decide if it's proved beyond a reasonable doubt.

Ross Ketcham said that lots of people were looking at Roxy, or Kristin Smart. She was striking and so that was a matter of why people were looking at her. And she was also slurring her words at the party. He didn't see any interaction between Paul Flores and Kristin Smart. And, remember, he was right there with his friend, Matt Toomey, and Kristin Smart's coming up to them multiple times.

Cheryl Manzer. She saw Roxy hanging out with several other males at the party. She told law enforcement that she never saw Kristin Smart and Paul Flores hanging out together. She didn't see -- and -- and Cheryl Manzer is her -- was her name later. Cheryl Anderson, she's the one that walked back. She said she

didn't see Paul Flores and Kristin Smart hanging out together and on the walk back she didn't see Paul Flores do anything inappropriate on the walk back, okay? And you heard other testimony from her but you have to look at that in context. Her deposition was taken by Jim Murphy in the civil case, trying to sue the Flores family, and she admitted that she testified in that deposition differently than she did on direct here.

Matt Toomey saw Roxy -- and, again, I'm not trying to -- that's how everybody knew her at the party is Roxy. It turned out to be Kristin Smart. She said -- I'm sorry, he saw Trevor Boelter with Roxy at the party, saw them kiss, and she (sic) saw him -- she (sic) saw her with Ross Ketcham as well.

And just going quickly, because you'll have your own recollection and notes, Trevor -- Trevor Boelter testified. Now, he was kind of an interesting guy because he had a tremendous amount of involvement with the get Paul Flores sort of vendetta. And even though he testified pretty straightforward -- I mean, you've got to give it to him because we looked at what he said and I asked him about some differences between what he said at one time or another but he did -- and I think it was Mr. Mesick what asked him about it -- I didn't even ask him about it because his testimony was pretty straightforward.

Mr. Mesick asked him about whether or not -- I forget the exact words, I didn't make a note, but

whether he was -- you'll have to remember, something about Paul Flores, getting Paul Flores. But his actual testimony was that he was -- originally he sent an e-mail to who? Dennis Mahon. And he set forth his whole story there.

And then he said, Well, it wasn't quite true because he didn't want to embarrass the Smart family by talking about what Kristin Smart was doing. And maybe that was a legitimate concern, that's fine, but he also was on a True Crimes With Aphrodite Jones, in two episodes, and he was involved with all the other media. And, remember, he was a media guy himself and he had a big involvement with all this media leading up to this case.

He said there was no evidence of drugs. His testimony did change a bit as time went on, but he did say that Roxy was all over other guys at the party. He never saw her fall but he was with her a good part of the time.

They did go to the bathroom and he started to explain about the bathroom and then he -- but in any event, he said he went in there and then it turns out that she -- she just -- she brings him in there and then she just goes to the mirror and starts asking him about, actually, it turns out some of the taller guys at the party, he was not one of them, as to whether or not they -- he would want to have sex with them, which is the way she put it and he thought it was very weird, and she was

kind of primping. And he was -- that was his experience, in any event, in the bathroom.

And then he says he came out and then there was some guy there who he said -- later he said was Paul Flores. But he changed his testimony on that, you may recall. He said he was not sure that he saw Paul Flores at the party, okay? You can go back. If I'm wrong, I've been wrong before, you've already proved that once, but you can take a look at it.

And it turned out he eventually said, Yeah, what I originally said, and then as it went on, I wasn't sure it was Paul Flores at the party but now I think it must be him. So here we go, becomes a self-fulfilling prophecy. 25 years, enough of these people want to talk about Paul Flores, who they didn't know at the time they started doing it.

Eric Wilkins. He said several people were walking back after the party, including Kristin Smart and Paul Flores, Tim Davis, Cheryl Anderson, pretty much otherwise unremarkable. But, you know, he confirms several people.

And if you think about it, what's -- what's reasonable? What's a -- a reasonable interpretation of this is that there are a bunch of people going back to the dorms at about 2:00, 2:30 because the party is over, that's when people start going back to the dorms.

And the dorms were all up there and you recall that -- and we'll come back to that one more time in a

second here, but the -- the testimony of Tim Davis, who -- even in closing argument Mr. Peuvrelle put that up there as if it were the truth and circled and said, I want you to tell -- we're looking for the truth and somebody circles the area at the side of the house. That's not what Tim Davis said at the time. He said it was several people.

There was another party at another frat. So -- okay. So I was never in a fraternity so -- and I never learned all the Greek letters so I forgot what it was. Was it something Nu, the -- anyway, a Greek letter fraternity was across the street and he said people were coming out of that party and they were all walking up the street and Paul Flores was walking up the street.

That's consistent with Eric Wilkins. A bunch of people are going back to the dorms because there were a bunch of kids that got drunk, underage, at a party. That's what college kids did then, apparently did in ancient times when I went to college, probably do it now. They're going back. That makes much more sense.

And then we have the testimony, after the party testimony, that Jana Schrock says Munley's in bed with her, window's open. That's all we know about that.

And then after, Jennifer Phipps in particular started to get particularly nervous and sort of took over things. Now, you recall she was not a close friend. She was across the hall but she was the, you know, the person that wanted to, you know, take this on

and try to get the attention of law enforcement when the -- after the young women in the dorms were talking about the fact that Kristin wasn't there, she hadn't come back, where is she.

And there was testimony, I can't remember who said -- I think it was Crystal Calvin that she'd go overnight and sometimes not but she'd come back. And here, Jennifer Phipps at some point said, Well, we've got to call the police.

Now, we can be critical, we can do whatever we want, I'm not here to make out Cal Poly as the bad guy or anything else, but the Cal Poly police clearly blew it. I think Mr. Peuvrelle and I agree on that. And -- and is it their fault? I don't know. We look back, 20/20 hindsight, it would have been nice if they, you know, received somebody's report and had actually done something about it.

Apparently there was an Officer Pearl who came out and he was a uniformed officer from the Cal Poly campus police. They're sworn peace officers. They're supposed to investigate crimes. Let's face it, they're not doing, you know, the -- usually the bigger time stuff that the other metropolitan police departments do but they're supposed to take care of business and they kind of blew off Jennifer Phipps, which is unfortunate in all sorts of levels, and eventually sent out an Officer Pearl. And then it wasn't until Tuesday that Detective Kennedy finally came out.

Now, we saw everybody in their current -- stated their current age. You know, back in 1996 we were all a lot younger and back in 1996 some of you were a lot, lot younger or maybe -- I don't know, may not even been born yet but would have been close maybe. I'm guessing.

But anyway, so Detective Kennedy, you know, was a younger police officer at that time but he finally comes out and he starts investigating and does his thing.

But one thing Phipps did tell you, besides that she wanted to be helpful and she wasn't getting a response from Cal Poly police, she did remember Ted Munley knocking at her window to try to get in the dorm first, apparently, before he went around the other side and knocked on Jana Schrock's window and she reluctantly let him in to sleep on the floor.

Okay. So what -- what other information do we have?

Well, Derrick Tse testified that Paul Flores was friendly and he testified that he stuttered. And you heard Paul Flores stutter. And we've had Mr. Peuvrelle sort of try to make that into something but Mr. Flores stutters, that's just the way it is, and when -- he has a way of talking. And you can hear it on the tape where he overcome the stuttering by sort of blurting out -- you'll just hear it. It's a speech pattern where he just kind of blurts out. He'll sort of

talk over other people when he's going to get something out and it comes out. That's just who he is, that's the way it is. And Derrick Tse says that's the way it was, not just when he talks to police officers. He said, Yeah, he stutters. And he said he's friendly.

And, remember, Derrick Tse is the one who said his bed was on blocks because he had a microwave and he would microwave food under the bed. It was exactly the same way when he came back. There was no evidence of any disturbance in that room. There was no odors of anything like cleaning products. There was a refrigerator there. The desks weren't in a different position.

And, again, remember he said that he made some sort of inappropriate remark in 20/20 hindsight and -- about Kristin Smart, but he only said it because he had been told by other people that there were police officers in the room, that they were talking to Paul Flores, that there was this big thing that happened when he was gone, and Paul Flores said, Yeah, I saw her. I was the last person that's come forward to say he saw her, and so he made what he -- what was an -- I can't remember how he put it but it was clear the way he was -- he was a very nervous witness. I don't hold that against him but he -- it seemed hard for him to really just offer information but he said, yeah, he said something that was a joke or inappropriate and the response came back as a joke.

Now, we hear -- look at this -- of course, everybody's known about this for 25 years and it wasn't enough to prosecute him up until now, but this joke was, Yeah, she's eating lunch with my mom. Bad thing to say but obviously it has nothing to do with anything. And, obviously, Paul Flores was being asked by all sorts of people why are the cops talking to you and what's going on.

We have Mario Garcia. You heard about that. That guy was later in the week, after the weekend, which is significant because when you look at -- when you look at -- I don't know what happened. When you look at the actual video, you know, one of the things Paul Flores was very clear about when he was asked questions he was very clear about some things, like the last place he saw Kristin Smart was always the same. And then they tried to push him and in his interview they -- they really tried to push him and they were leaning on him real hard and they were making sort of a closing argument for the Prosecution as it were because that's an investigative technique, got to get somebody talking.

Well, there was just one thing he was absolutely clear about striking in there, about the black eye, because you don't hear, nobody is going to say that, I had a black eye on Saturday. Now, the police figured out where he was on Saturday and I think it came into evidence that he was -- that he went with friends to a movie. I can't remember who said it so --

went to the dinner place on campus and then went to a movie later on Saturday and then it was eventually Sunday he goes to his parents' home at White -- or his father's home at White Court and worked on his car.

And, by the way, he worked on the car. If you looked at the DMV information and the chronology that we asked Detective Cole about, he had lost his license, remember, and they were preparing that little truck to be sold and so he's taking his -- he said he's taking his stereo out of the truck. And -- and, in fact, it's clear they were trying to sell the truck because he couldn't drive it and then later he got the use of that white truck.

But anyway, back to the story. So one thing he was very adamant about, very adamant, no, nobody saw me with a black eye on Saturday. I didn't have a black eye. I mean, it wasn't -- there was no hedging bets, like, Well, maybe somebody saw me and -- that was very clear.

Look at some of the other witnesses I've talked about the -- the witnesses again.

Davis. We had to call the detective, retired Detective Stewart, to come and verified that Davis had made that statement. Defense doesn't have to prove those things but we did.

All right. So then after that we had, just quickly, Mike Kennedy said that they were trying to investigate a number of things and they had a meeting --

the Cal Poly police had a meeting with the DA investigators and I think the Sheriff and on June 19th, 1996 -- and we looked at his notes. I think he looked at his notes to verify this. June 19, 1996, that was the date that they decided to focus on Paul Flores, okay? So that had a big effect on the -- the view that everybody took towards this case.

Now, of course, meanwhile you've got other people gossiping, there are rumors, got the flyers out, and that's where it goes.

Mike Kennedy did say the dorm beds get moved to other dorms. There's no evidence that happened but there's no evidence it didn't happen.

He admitted that Paul Flores had just paid off his warrant and could have been nervous about the detective coming to arrest him for an outstanding warrant that he just took care of. He said he was -- Paul Flores was polite and came to the police station when he was asked to. And that when he was in Paul Flores' dorm he didn't see anything that looked damaged, he didn't see anything at that time that suggested anything. He didn't testify to any odors or anything weird, he just talked -- talked to Paul at that point.

And then sometime after that -- he didn't secure the room -- the custodial cleaned it before the search. He didn't know how many law enforcement officers had been in Paul Flores' room before the dog search but he knew he had been there and there were some

other people there and he knew Neufeld had been there.

Cudworth. I think we've covered this because I was responding, he had been on the Cal Poly Police Department for four to six weeks, I think four weeks on patrol at that point, and he interviewed Paul Flores just as one of the people that may have been at the party and Paul Flores was cooperative. He summarized the interview in his standard police language but he was cooperative.

Neufeld testified there were no fingerprints, no evidence at the end of the examination, didn't find anything that was of evidentiary value. He swabbed mattresses and then he also eventually took portions of the mattress and those were all booked into evidence. And you saw it in Exhibit 666 that they went to SERI lab, among other places, because you remember Angie Butler said that when she got some of the packages they had been opened multiple times by multiple people but no -- there's been no evidence from the Prosecution that anybody in any lab that looked at these things ever found anything of evidentiary value, anything that pointed to Paul Flores at all. And we'll come back to the "at all."

He admitted after being pressed -- now, he's retired and he didn't really like me asking him questions. You decide but that's what I thought. And I said, Come on, this place wasn't secured. You were a crime scene investigator. You want to go out and look

at a crime scene or any scene as soon as you can and -- so it's preserved and all that. He kind of gave it up and then finally I said, Look, this place wasn't even secured for over four weeks and he said, Well, that's not ideal. Okay. Well, it's his understatement way of conceding that this was a big screwup.

If this was supposed to be a crime scene, which now Mr. Peuvrelle is saying 25 years later it was, if this was supposed to be a crime scene, what the heck were they doing? They let the -- let this room sit there. And we heard he was called and he then said the people at the DOJ should do it and then they were too busy and then he got called back again to do it and so he was in there four or five weeks later. That's not good police work.

It's nice to -- you know, I mean, we can be critical after all these years but the fact is you can't give them the benefit of the doubt and say, It's okay. Yeah, they didn't do it, not their fault. He was a Sheriff's Crime Scene Investigator, not a Cal Poly. It doesn't matter because you have to have proof beyond a reasonable doubt. You can't just go back and say, Well, maybe I'll betcha if they did things right maybe -- you can't do that.

Okay. Hanley testified that Paul Flores was cooperative and polite. He contacted the campus store where he worked and Paul Flores came over right away as requested. He admitted that his partner Hobson was an

expert on getting people to confess, he teaches classes on the subject, and he admitted that they used -- that they lied to Paul Flores in order to get him to confess. Paul Flores though was consistent in saying what happened and did not confess and, of course, we know was consistent from all the other -- all the other attempts to get him to say something different.

Jeromy Moon, who is not related to Brent Moon -- and just out of an abundance of caution I asked him that early on just so it didn't sound like they were. It is an unusual name but they're not -- they're not related. I think I asked Brent Moon that too.

But anyway, he was the guy -- now, the interesting thing about Jeromy Moon is that he said he saw a black eye not on Saturday, not on Sunday, but at one point he said he saw the black eye on Monday. But then he had told the police officers -- and you've got the instruction about prior inconsistent statements and you can consider that for the truth of the matter. I mean, you don't have to decide which is true but you can decide whether or not they're true.

He had told police officers that he didn't see Paul Flores until the next weekend and Mr. Peuvrelle said, Well, Monday wasn't a holiday. He didn't say that. He said -- he said the next weekend, Saturday or Sunday, and that's when he thought they played basketball.

He said they played basketball and there were

no injuries in response to Mr. Peuvrelle's question. Really? Has anyone played basketball? I mean, you get a flying elbow, you get all sorts of things, and you don't necessarily fall -- it's not, you know, like -- I was going to say like in soccer but I don't want to offend anybody that loves soccer, but people do fall on the ground a lot, you know. It's not like a pick-up basketball game, you know, you just keep playing. So I don't know how he would know if there was an injury or not.

But, remember, Paul Flores is adamant that nobody saw -- and they have no evidence that anybody saw any bruising on Saturday. And I think it was Officer Cudworth who said he didn't even see any bruising when he talked to Paul Flores the first day.

Karen Hall, the ridiculous video where she's sitting there and she's now sold it or did something with it to one of the TV shows and she wants to get it back for her collection, I think she said. And what does it show? It doesn't show anything. It cuts off when she says something inappropriate, let's face it.

Paul Flores had been -- at the time of this had been interviewed by police about this stuff. It's an ongoing investigation and she makes a remark about something Paul -- and Mr. Peuvrelle says he didn't say anything but hang his head. Well, he did say something. He knew that Paul had said he didn't say anything. So we saw the video and she goes, Oh, yeah, I guess he did

say something. That's not an adoptive admission that this would mean anything. I just don't understand the significance of it.

Then we have J.T. Camp. Investigator Camp. He kept going up and down, you know, introducing pictures and all that. He's the investigating officer with Cole. Remember I asked, Well, did you really investigate? Well, no. I'm just working with Mr. Peuvrelle and preparing -- helping to prepare things for trial. So he did a lot of these last minute interviews with people either last year or again this year, showing them reports, talking to them, getting ready for trial.

But he also said, well, he was a Cal Poly student in 1991 and so he's going to tell us about the dorms. I mean, is that really evidence in a criminal case that somebody went to Cal Poly in '91 and make him talk about the dorms, how they must have looked in '96, then he went out again in 2021 when he first worked on the case and then in 2022 and took pictures and admitted that things were different?

But, you know, one of the things that I thought was particularly remarkable -- and I didn't bring all of the photos here, you've got them -- was the pictures he took of the -- the window in 2021 and said, Look, here's the window, here's the screen. Well, we don't know if the screen worked that way in 2020 -- in 1996. That's him doing that in 2021.

I'm talking way too fast. I'm trying to get

done but I'm talking way too fast. The court reporter is kind enough not to bring that to my attention but let me bring it to my own attention.

But he picked up the window in 19 -- in 2021. How do we know any of that? We don't. We have pictures of the inside of the room. It looks entirely different. There are bunk beds and all of that.

We know from Neufeld that the room looked different but it had even been changed by the cleaning crew so we don't -- other than Derrick Tse telling us what it looked like we don't really know what it looked like.

But one of the glaring things was the pictures of the -- of the back of that dorm. Now, there's no evidence whatsoever that Paul Flores took Kristin Smart out this window. You recall Mr. Peuvrelle, with the Neufeld pictures, saying look at that -- that car's right up next to the window, you can just -- the car was the police car, the SUV that Neufeld had, was taking pictures taken four or five weeks later. Just look at that, you could be right up there.

Even Mr. Camp said -- Investigator Camp said that in that picture that -- based on his looking at the scene out there, that car was probably five -- I think he said five or six feet from the window, okay? All right.

So -- but these -- all this innuendo is not proof beyond a reasonable doubt, but if you're going to

consider the innuendo look at the pictures you were shown. No bikes in the bike rack. And we had the picture with the bikes in the bike rack and I asked Detective -- or Investigator Camp, isn't that what it looked like when school was in session around Memorial Day and he said, Yeah, probably it was what it looked like.

So I don't know -- and how much time do we have to spend on these things, these various kinds of things that changed like where the body was and where Huasna is and things like that, and whether a ramp is a deck? I mean, it's a moving target.

But if their theory is that somehow Paul Flores took Kristin Smart out through that window, there's absolutely no evidence of that.

And Memorial Day, when school is in session, there would have been a bunch of bikes there. It doesn't mean you couldn't climb over the bikes, I suppose, but I don't know, why show you pictures with no bikes when everybody knows better? And yet, there's no evidence of that so you can't just speculate.

And then I think Mr. Peuvrelle said, Well, maybe he could have taken Kristin Smart out the door or maybe he could have taken her out the other door or maybe she wasn't even there. I mean, you just can't do the maybes and ask this jury, the ladies and gentlemen, to believe that there is something been proved beyond a reasonable doubt.

Okay. So then we have, of course, the -- and this I intended to talk about until I was just shocked, I still am to a certain extent, by the -- by the change in the story just before lunch yesterday where the -- where the body was -- now was under the deck that's a ramp in Arroyo Grande that's Huasna. And as I said, that would be -- still I should look something up but it would be way up in the hills here versus downtown and a ramp and a deck and different stories. You can't just speculate and you're just being asked to speculate by the Prosecutor. It's not even hidden.

Okay. All right. And then we had the Angie Carrizel story. That was the -- a strange one. She was dating Paul Flores, they were living together, they came up to visit for a holiday. I think Mr. Mesick was trying to establish it was Christmas but it wasn't clear whether it was Christmas or something else but I think Ms. Carrizel agreed that she was up there to be at a dinner for some reason at Susan Flores' house and that they went over to Ruben Flores' house, either to meet him or see the house or do something but they were there just briefly and they were going to go back to the other house.

And she says she went out -- first of all, she had the wrong doors because clearly the door that she was talking about would have been David Stone's room and people didn't go through that sliding door and the next room was at the other sliding door, so she went out some

other entirely different door.

But what did she say? She said she went out and she was going towards the avocado and then she -- the avocado tree and then they said, We got to go. And she remembered there being some dogs under the -- under the deck for whatever reason that is and that's -- I have trouble connecting those dots, okay?

I mean, what's that got to do with anything? I mean, other than there are dogs out in the backyard. I mean, you probably worry about people stepping on things, but staying away from the avocado tree? Is the avocado tree now the ramp at Huasna, or what is it? She didn't try to go under the deck. She didn't -- you know, it's just -- it's -- okay. If you see something I don't then, okay, you can discuss it.

And then we had David Stone who said that -- originally, Detective Cole thought he said that he wasn't allowed to go under the lattice and that the lattice was locked at all times but he was not talking about that, he was talking about the house, under the house, and there was nothing under the house.

And then he admitted that he put drums under there. And when he admitted that earlier, then he said, Oh, yeah, but Ruben made him take them out anyway, but what were in the drums? Well, he put these chemicals in there and they were selling them at the swap meet. I think a home owner would say, Yeah, I don't want 55-gallon drums under my deck. I didn't -- you know, I

rented you a room, I didn't rent you a storage facility for chemicals or drums that had chemicals in them or whatever. But it turns out, whoops, he meant under the house.

And this whole story about the plumber that Mr. Peuvrelle tried to make sound so suspicious with this tone of voice, the whole thing with the plumber was apparently Stone thought that he was -- that -- that Ruben Flores didn't want the plumber to go under the house. Okay. And why? Because he was going to fix it himself. But under the house has nothing to do with anything, okay, but it was put up here.

And partly I think to say, Oh, we have these new witnesses like Angie Carrizal, David Stone, and Jennifer Hudson that we didn't have for the last 25 years so now we have this new stuff in the last few years so that's the reason we arrest Paul Flores in 2021, leading up to 2022.

All right. So now we're going to go to the last part of this, which is the so -- the other -- well, the only scientific evidence. The dog handlers purported to be scientific evidence but they didn't have the science and no scientist was ever called but you can consider it for whatever it's worth.

So let's go to the so-called scientific evidence, okay? And this is now the evidence that's supposed to convince you beyond a reasonable doubt that there was a burial site under the deck at White Court in

Arroyo Grande that was really a ramp in Huasna, which is the new theory. But however you want to look at it, they're trying to convince you that there was a burial site there.

So what do you have to do when you look at all the evidence? And this evidence includes Arrington, Hanes, the team that goes around and does these commercial archaeological certifications so people can dig foundations and build their buildings. And they do some other work too. They said, I think, looking at historical graves and digging them up for the Daughters of the American Revolution was one of them and some other -- some other group that was interested in trying to find indigenous people's artifacts. That's what they do.

So this is part of it. And so, as a result of all of this, with no real experience in doing forensic work, they had -- this was their third case. They've now got several cases since then so it shows, you get publicity you get somewhere, I suppose, but at the time just a couple cases and they did their thing, which we'll get to talk about in more detail.

And then you had -- you had Shelby Liddell, who dug things up. And then you had Angie Butler who wanted to testify about results. And -- so we'll talk about that part, which is the alleged burial, which makes no sense, and then we'll talk briefly about the testing on the spot on that mattress cover that was uninformative

but it's put before you anyway with the hope that somehow you'll put two and two together and get -- I was going to say five but get 12 or something out of this case.

Anyway, expert witnesses. Remember that the fact the Court said they were experts is just so they could be allowed to ask questions and offer their opinions. That doesn't mean the Court's agreeing -- she's not certifying degree -- your Honor's not certifying that these people are experts and you should just say, okay, whatever they say is fine. In fact, the instructions say just the contrary. You have to decide if their testimony really made any sense and you have to decide what their background and experience was and that sort of thing.

So let's look at Arrington and Hanes to start with and, again, try to go quickly through this. So the first thing was Hanes was actually very modest in what he claimed that he could do. Mr. Peuvrelle makes him into a guy who can tell you there's a burial site because there's so many feet by so many feet and he shows us pictures of anomalies. Now, note that the anomalies are not consistent. It's not like a rectangle or a -- a -- what's the word? Anyway, it's not like a box that was dug out, it's like little parts of things that show anomalies.

But what's an anomaly? It doesn't take a picture of what's under the ground, it just shows that

the radar responses -- which are radio waves that go down and come back and then you measure that and that helps you decide if there's something that's not reflecting as it's reflected by adjacent soil, okay? So it's an anomaly.

He makes it very clear that he was not a -- he was not there to claim that there is -- there is a burial site. He was there just to provide some information for the next people to do whatever they wanted to do, okay?

And when you talk about anomalies -- and I don't have all the slides here. I was trying to find one and I didn't have a copy of it, quite frankly, where Ms. Arrington was standing there or had a picture of someone standing there in front of hundreds of -- maybe millions of years of deposits -- remember that bit picture where there was somebody standing there like this and they've got this big picture and she said that's -- those are strata and they're laid down and you can tell that this wasn't disturbed? Okay.

We're talking about two to four feet -- by the way, if you look at the actual exhibits, the relevant stuff is for the most part two feet down, not four feet. But when you -- when you're looking at this area we're not talking about whether something is disturbed, whether the archaeological strata from whatever age it was, I didn't pay attention in geology like I should have, the various stages, you know, where it can show

stuff was laid, we're not talking about that. We're talking about something near a house.

And what about the house? The house was a place, it was a construction zone where there's all sorts of bulldozing and digging and whatnot. So they had to dig the foundations.

And there were trees, there were -- you can see in the pictures there were trees. There was a tree in the foreground where he said, There's one that was pulled out. But you can see there were trees all around this house. And here's the one tree right there, you know. There's this hole. Do you think that would have caused an anomaly once it was filled up? Probably.

But you see the trees here on this side and then -- I've got the exhibit numbers on the top so I'm trying to go quickly without talking too quickly, so you can read the numbers and you can find them later.

The avocado orchard, and there's some other pictures, was -- this whole area was avocado orchard and Mr. Cauldwell (sic) said he had to pull up the trees and he pulled up the root balls. And the trees would have been all over this area here. I'm pointing to that. And you can't see it but you know what I'm talking about -- whoops, don't do that. Would have been the trees there. We saw before the construction, there are trees all over the place so, clearly, there are going to be anomalies.

But more importantly there are anomalies right

here. You've got the retaining wall -- or the side of the house that had a wall that went way down and you got his plans, and you can look at them if you want to. The plans call for digging down, I think he said four to six feet so you'd -- you'd be able to put the wall in. But then he said, Once we got in there, like construction happens, once you start doing the work, you go, Oh-oh, I have to do something else so they had to go eight feet there. And then they had the same problem when they put in the wall and then they built the deck and they put this other wall in here. So this whole area in between the wall and the other wall had been dug out to -- to build this house.

So what can Hanes tell you? Nothing, okay? I mean, he told you what he could tell you, which is he found there were some differences in the soil. But of course there were. They were all dug out by a backhoe and the rest of the property was dug out. It's amazing he didn't find more anomalies. And they may have been there and they just didn't show up.

But Hanes was fine. Mr. Peuvrelle wants to say he found the grave site but that's -- that would be the area right in there that they dug up before they put those two walls in and went down to eight feet. Of course there's not going to be stratification. We're not going into the -- into some ancient age, you know, when there were dinosaurs and things were being laid down, this is -- this was all top soil that has been

removed. You wouldn't find strata like that woman standing in front of the picture, okay? It's just -- it's almost smoke and mirrors. I hate to say that.

Now, having said that, let's see what 31 is. Yeah. So then we get to the so-called bathtub ring. And -- and I know people had an emotional response to this because it's, ah, and Mr. Peuvrelle was saying, you know -- it's just like Arrington, in a very teacher-like fashion, not a teacher, Well, you see that this is according to blah, blah, blah, and it turns out that it was tested and it wasn't blood, didn't even show up on this HemDirect thing, which we'll get to which was nothing.

But not only that, Dr. Carter told you about this. And Dr. Carter was a remarkable witness in that, first of all, he didn't charge us anything other than his airfare because he's an academic and he felt it was part of his job, but it's also a part of his job to work with the Honolulu Medical Examiners Office and everything else. And he learns by not only academically testing and going to the Body Farm and doing all those things, he also learns by being out there and actually getting calls out on actual dead bodies.

And he said these are lamellae and he said he did research on it and you can see them not only in this position -- so when you saw that, you go, Oh, my God, there's a pool of blood there. And, yeah, it's got to -- it's got to sound shocking but it turns out it's not

true. And we know that because this is -- I think there's another picture. And I was a little limited because I had to take these from the -- where I could get them, but I believe this is the one, it's 265, but they're in this area.

Remember, which area is this? This is the Excavation 1 in Grid 3. Did I get that right? I think so. Anyway, this is the one that's down around the corner, okay? And you could see -- darn it. You can see in this one similar lamellae -- and I think there was a better picture but I actually showed it to Arrington and she goes, Yeah, that looks similar, all right? Why? Because that's what's in the soil when they dug it up and put it back down, and whatever caused that, was there water that went through the area, whatever caused that caused it all over the place on this property.

And they didn't test that. You may recall they said later when they came back in April they decided to do a bore down in this area and it came back negative for any of this HemDirect stuff, but they never bothered to do anything with that. They liked the other area better so they focused on it.

Okay. Okay. And then Arrington also, you may recall, admitted that it was unusual not to find other evidence of a burial in that usually you'll find something. You're going to find teeth, hair, some kind of remains. You'll find not just the microscopic

fibers, which even their experts you really can't tell anything from, but you would find fabric or something left over and all that.

And so, the theory was, I think at that time, that a body had been buried at Huasna and then was dug up, because they dug up an area a size bigger than this courtroom and another area up there to try to find evidence. And then the theory was the body was brought down to the father's house, which, by the way, makes no sense, but brought down there and placed in this other location. But she said, you know, usually you would find such things.

And then she said, Well, maybe there was a semi-permeable tarp, okay? Now, you can't just pull things out of your hat as a -- as an expert. You have to -- if you're an expert, it's supposed to be based on expertise. I won't put the things up again but, remember, that's what the instruction says; right?

You can't just say, could have been. So did you have any experience with semi-permeable tarps? No. You ever see a body buried in it? No.

Think about it. What is a tarp? A tarp is something that keeps the water out. It's not semi-permeable, it's -- it's impermeable. It doesn't allow water in. You put a tarp over your car, you put a tarp over things that you don't want water to get into. That's what tarps are for, okay? So that makes no sense. Plus she just pulled it out of her hat. It

doesn't mean -- so there's no scientific basis for it and there's no basis in evidence for it.

Well, if it's a tarp maybe somebody I think said well, that's -- that may be vinyl, that might not -- that might not degrade. Okay. If it's a real tarp that's really made out of vinyl, that's not semi-permeable; but if it's semi-permeable, that's the kind of material that would degrade and you'd find evidence of it.

But we don't know any of this stuff because they didn't -- the Prosecution didn't present any real evidence, they just had an expert say, Well, it could have been that. And she admitted it was an unusual -- didn't look like a burial site to her, basically, but she was going to go with it if she could and testify to it.

THE COURT: Mr. Sanger.

MR. SANGER: Yes.

THE COURT: It may be a good time to take a break.

MR. SANGER: Yes.

THE COURT: All right. And, sorry, pardon the interruption.

MR. SANGER: That's okay.

THE COURT: Ladies and gentlemen, we're 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 will see you back here in 15 minutes, which will bring us to 11:05. Thank you.

(A recess is taken.)

THE COURT: We are back on the record in the case of People versus Paul Flores. All parties are present. We are in the presence of all of our jurors and alternate jurors.

Mr. Sanger.

MR. SANGER: Thank you, your Honor. Okay. Trying to wind this up now. All right.

So we're talking about the scientific -- so-called scientific evidence. And I don't know where Mr. Peuvrelle got the accolade from but he said something like, Ms. Arrington was the most renowned person or he had some words about -- I didn't hear any evidence of that, I just heard they did a lot of commercial stuff and they did three forensic things.

I think even -- even Mr. Hanes indicated that they weren't used to billing on these things. Remember, he didn't bill very much. They weren't used to billing on these things. They're just -- it is what it is. The evidence is what it is.

So that leads us to some of the other testimony. We had Shelby Liddell, who was the evidence

tech. She didn't find any evidence of teeth, hair, clothing, et cetera. And she went down and tried to find these dark spots. You could look at all the pictures, I'm not going to put them up there. There are puddles, like -- like you had puddles that look like something settled but it's at two feet, not at four feet.

And a lot of them doesn't mean anything but they don't even come back on HemDirect. But, obviously, it means that a body -- would mean a body would have been buried just beneath the surface because if you dug it up there wouldn't be things that looked like puddles; right? It would just be dirt thrown back in. And that's at two feet.

I think -- did I have a picture of that here? Yeah. If you look at the ones with the -- with the yard stick, that's where the lamellae are in that picture. And if you look at the other one you can see it's about two feet.

So they went back. And, remember, they're out there in March and they had the two tests, what were labeled as 26 and 27, that was from upper and deeper, and there were no results on upper and there were some on deeper. And those are the only tests that were done, on A, B, C, D.

And then -- I mean, 20/20 hindsight, we won't pick on them too much, but they could have done a better job on labeling things, but then they had A, B, C, D

where they dug up next too and E, F, G, H where they had already dug up and went down. Anyway, you saw all that. I don't want to go over it all again.

A couple of high points. Shelby Liddell not finding any evidence of teeth, hair, clothing, et cetera, things you might find at a burial. She also noted that the deck was removed. And it was her job to document anything of evidentiary value. She was the photographer and she didn't see any evidence that this deck had ever been tampered with since it was built. There was no evidence that it was rebuilt, in other words, or saw markings from the year before or whatever their theory about the body being dug up and moved all over the place. She didn't see any evidence there.

So they went and they ruined the deck and cut everything up and did some more digging in an area that didn't show an anomaly, which is unusual because we know there was an anomaly, we thought that was dug up because that -- those walls were put in prior to the -- this whole thing. So none of that makes any sense. Not proof, not proof beyond a reasonable doubt, it just doesn't make any sense.

So then they bring in Angie Butler. Angie Butler was a nice enough person. She had a little personality change or difference when she came back in rebuttal. I was kind of shocked because she was very polite and then we saw when she came back on rebuttal and she was pretty much on edge. I don't know what that

was about, if something happened, she was talked to about this case or something, but there was -- she came back in rebuttal, you were there, maybe you didn't see it, maybe it was just me, but on her original testimony she was pretty matter of fact.

She has a bachelor's degree, doesn't have a masters or Ph.D., kind of learned on the job, which is fine. I'm not picking on her but she was definitely not a chemist. She had no real knowledge of HemDirect technology except that she got the brochure that came with the test and she followed the instructions in the brochure.

So what is this about HemDirect? We'll get back to her DNA thing at the end here, but just on the HemDirect, okay? The HemDirect doesn't mean anything. And Mr. Peuvrelle can come in and say -- what did he say so -- so inappropriately emotional, the only thing they have left -- my apologies to the Smart family -- are these little bits of blood. That's cruel. It's not blood in the soil. The tests show that blood does not -- is not testable, doesn't show up on HemDirect if it's exposed to the elements for even four weeks, okay?

And then Mr. Peuvrelle said, Well, if it's buried under the soil that might be better and it's behind a wall and it's this -- okay. There's no testimony about that. There's no scientific testimony about that.

But more importantly you don't -- you know, one

of the problems we have is junk science coming into the courtroom and that's one of the things you have to be aware of. It's got to be real science and it's got to prove something and that's why you have the instruction about looking at the qualifications and the basis for what people say.

So she told you that there is no validation study for use of HemDirect in soils. Dr. Butler (sic), who does have a Ph.D. and has studied burials for 20 years, despite the fact he didn't look old enough to do that -- and he's a nice fellow -- despite the fact he studied burials for 20 years, he goes to conferences, he gives conferences, he's a true expert on burials, internationally recognized -- do you remember how humble he was about that? He said, I guess some people see me that way or something like that. But, clearly, all the things he's done in this area he's never seen the HemDirect used in soil in a burial site. Never.

Now, Ms. Liddell (sic), when she was here the first time really didn't try to put too much of a spin on it. And she came out and volunteered that they had only used it in three cases in her lab and she wasn't aware of any other lab -- do you remember she said any other lab in the country and she said, Well, or international or outside the country, she said something like that, ever using HemDirect in soils and she admitted there were no validation studies.

So what is it in soils that can trigger

HemDirect that is not blood? We don't know because it's never been studied.

And one of the principles of science -- and Dr. Johnson, who was a -- is a Ph.D. scientist said one of the principles is you have to have validation studies for the way in which you're using a test. The test might be legitimate some places but until you have a validation study for the particular situation in which it's being used, in this case in adjacent to soil, in soil, unless you have a validation study it's not valid. That's what validation means. It's not valid. So these are not valid.

I don't know what caused the HemDirect to react. It's a little faint line that she says is a positive. I don't know what caused it, you don't know what caused it, the People have not proven what caused it.

Why would it just show up in some samples and not others? Well, Mr. Peuvrelle says the samples were curated. First of all, I don't think a witness said that. It's a popular word these days but, you know, it doesn't matter. Why would it show up some places and not other places? That caused Dr. Johnson some concern as a scientist.

Mr. Peuvrelle likes to say "accredited." Remember, we heard what accredited was? It was really kind of funny if you -- if you got it. It was very subtle. Accreditation was ASCLAD lab. Not kidding you,

that's what they called it, and it was the Association of Lab Directors -- anyways. I forgot what it all starts for.

They came along when? They came along after Dr. Johnson was in Texas and had caused a lab to basically be investigated and shut down for improper practices. And ASCLAD, the Association of Lab Directors, not an independent organization, got together and said, Oh, we better have a process. We got that out, that came out, it was kind of just a little side show that came out, but it was kind of interesting that Dr. Johnson was at the beginning of that and so laboratories can or cannot be accredited.

They then turned it over to NAA -- I think Dr. -- not doctor, Angie Butler got it turned over to ANAB, which is another organization which does accreditation. So they go and check out labs and say, yeah, it's cool.

But you don't have to have an accreditation and as a Ph.D. scientist Dr. Johnson doesn't have to have any -- be associated with a lab that's accredited by the Association of Lab Directors or anything else. So that's just a little thing that Mr. Peuvrelle keeps emphasizing. I hear it in his tone of voice where he goes "an accredited lab." Okay. Fine. You can look accreditation -- you're never told how you keep accredited but, anyway, it has nothing to do with this.

Angie Butler says she's not aware of any other

laboratory anywhere that uses HemDirect in soil. And she's also aware of the e-mail correspondence between Dr. Johnson, who tried to check it out, and the actual scientist in Germany -- who admittedly had a German name, all right? There was an objection to that, but there was a scientist in Germany who worked for SERATEC -- which has nothing to do with SERI except they sell their products to other labs but they're not associated to each other, it's -- it sounds similar. They're the ones that make HemDirect.

And what Angie Butler does is she gets little packets -- just like you get the COVID tests, they come in a packet and you got the different things you use and you put the solution in the hole and you wait for the line to show up. And what she knows is what she said she read in the packaging material, the thing that comes with it just like the COVID test says, do this, do that.

So she knew that Angie Butler was aware that the lab scientist in Germany had said that this had not been tested with soils. Okay. And so, we have the other real -- real scientific information, which is there's a study that says exposed to the elements can last up to four weeks and after that it doesn't work because the hemoglobin breaks down.

So what do you have when it's testing, theoretically, I don't know how many years now? We had the new theory before lunch yesterday that the burial occurred directly under the -- under the deck because

the deck is a ramp in Arroyo Grande's Huasna. That wasn't the theory before. The theory was the body was buried out in Huasna and then it was brought. So we don't know how many years it's been there but if it was supposed to be there 24 years, ten years, it was supposed to be there more than ten years. There's no scientific evidence that shows exposed to the elements hemoglobin would show up and would activate this test so it's not activated by hemoglobin.

Now, Liddell (sic) said, Well -- in response to a question, Oh, yeah, we did a lab test where we had blood on clothing that was kept in the evidence locker, a controlled situation, at room temperature and she was able to test that after 30 years. That's totally different than something that's been exposed to the elements that may last two or three weeks at the outset than soil where we don't know.

So what are these test results? Well, it's not up to us to prove what they are, it's up to the Prosecution to prove this beyond a reasonable doubt. And, however, we did bring in our own expert who said that it makes no sense that they would be still -- you'd be able to test them in soil, and even if that was -- was going to be what you wanted to prove you needed to have a validation study and it doesn't exist and it's not likely to exist and she explained why the hemoglobin would break down.

So it's reacting to something that's not blood.

And what is it? Well, you may recall that I asked Ms. Liddell -- not Ms. Liddell, Ms. -- Angie Butler. I asked her, Isn't it a fact that the -- if a false -- that there are false positives? And at first she resisted that. I think she said no. And then I asked her the actual language from the insert that she was relying on for her opinion, the insert that came with the little test kit, and what did it say? It said a pH level of five or less could cause a false positive. So there are tests that show that, okay?

And soil can be all sorts of things. You know, the pH level of soil can be up and down. We heard about that. She didn't really know that until I showed it to her and then she goes, Oh, yeah. And then she said, But, you know, battery acid is a .5. Now, she said .5. I don't know how that came up but that wasn't the issue. And we've got her -- I think she looked at this, and definitely Dr. Johnson did, if you look at the -- you got hydrochloric acids here and it was testified that battery acids would be somewhere around a .5. It would be under a one, okay?

So it's not a five, a five is over here. And what's at five? Well, there's a high five, low six is milk; five is coffee, right in the middle; wine is somewhere around four; then you've got vinegar and lemon, stomach acids; and then you've got battery acids over here. We're up in the coffee area, wine/coffee/milk area. Water is -- is seven.

So we don't know what happened but we know that there were positives that aren't accounted for by any scientific study that shows that hemoglobin would still be there in the soil if it was really blood, so what made it happen?

It looks pretty likely -- she said you're supposed to -- to use -- if you read the instructions it says you're supposed to use the buffer, the stuff that comes with the test, okay? And I think most -- at least the test that I've seen for -- for COVID you have a buffer. You're supposed to squirt something into the solution -- or into the hole and then you put the swab in there, that's a buffer. And it says you're supposed to use their proprietary buffer. She didn't know what was in there but that's supposed to help ensure you're somewhere around the right pH level.

But it doesn't mean that if you put soil in there that's got some level below a five that would affect the test results or some part of the soil that has that doesn't mean that's going to react, we don't know, because there's been no test on that.

But she also said that before she did that she used water and there's nothing in there about using water before the buffer. She said, Well, I didn't -- I used distilled water, then I used the buffer. It was kind of a weird dichotomy there. It's the same thing you're looking at and you use water and you use the buffer.

But whatever happened -- I don't want to get too technical in all this. Maybe I have already but whatever happened there's no proof beyond a reasonable doubt, there's no proof, there's not even a likely likelihood that this is blood because from all of the studies that do exist and from Dr. Johnson, who is a Ph.D. and has studied all these things in great detail and studied the chemistry of it and the biochemistry, you would not find hemoglobin after 20 -- well, the story changes, 25 years now, but certainly after more than four weeks but not after a number of years.

So, anyway, so the HemDirect really is -- makes no sense.

And then, of course, besides having Dr. Johnson testify about that we also had, as I said, Dr. Carter, who studied this. He's a Fellow of the American Academy of Forensic Sciences, he's well regarded. Mr. Peuvrelle tried to make fun of him and say, Well, there -- how many colleges are there in California? How many universities are there in archaeologists? He's not a archaeologist, he's a person that studies taphonomy.

By the way, Arrington didn't even know what it meant. I asked her and she had a general description of what the word meant but she didn't know it was used in the study of decomposing remains and burial sites, but that's what Dr. Carter studied.

He's never seen the HemDirect used. And he also said -- to just summarize it from his standpoint,

you've seen all the testimony and all the exhibits, he basically said burial sites are messy, you see all sorts of things besides -- well, you see all sorts of things in a burial site and from everything he could see there was no evidence that this was a burial, no evidence this was a burial site.

He is one of the renowned experts. As nice as he is and as young as he looks, he's been studying this for years and he's recognized throughout the country and internationally as one of the leading experts and he said his opinion this is not a burial site so I don't know in the face of that how you can find beyond a reasonable doubt, or even by any standard but you have to find beyond a reasonable doubt, that it's a burial site if it's part of the proof that Mr. Peuvrelle is offering.

And then we have Faye Springer. I mentioned her earlier very briefly. And Faye Springer, you know, she said that she found microscopic -- you can look at the pictures, I'm not going to put them up -- the microscopic fibers that were sent to her because Angie Butler thought they were hair and she was sent a hair brush. And when she looked at them under the microscope some were plant material, there were some that looked like they could have been fibers but that's not what you see at a burial site. And she said, Yeah, fibers like that could come from anything, from people's clothing. We had lots of pictures of fibers, blue jeans -- they

were microscope fibers. They could come off of anything.

What's interesting -- and Mr. Peuvrelle referred to her, I don't know -- I mean, I think you saw the same thing. Yeah, she's a scientist. She was related to the Prosecution, she was a Sacramento DA scientist, but that's okay. She's also a Fellow in the American Academy of Forensic Scientists and she was sent samples to compare with hair. She found no hair.

Mr. Peuvrelle said there were other fibers. We never saw any other evidence of other fibers. That's -- that is not evidence before you and I. There aren't any. These microscope fibers, there wasn't -- that were thought to be hairs were the only fibers that we saw and she didn't think there were any -- of any significance. They're not the kind of thing that you would find associated with a burial site because we have all that testimony that would be something much more than that.

But she wasn't asked to compare them to anything. Now, Mr. Peuvrelle says, Well, you know, we couldn't compare it because, what did he say? Oh, he blamed us. He said -- he blamed Mr. Flores because Mr. Flores took the body. So there's no evidence, Mr. Flores took the body, either Mr. Flores. There's no evidence that -- you know, that there's a murder, there's no evidence that there's a rape, but this is all trying to bolster a non-case.

So now they're saying they couldn't compare it

with Kristin Smart's clothing. Well, wait a second. You all can figure this out. They had the brand name of some of the clothing, they had a description of it. I think it was Puma shoes and Roxy pants or something like that. They had the brand name. They had the general characterization. They could have gotten fibers from something like that and had a scientist look at it and say are these consistent but they didn't.

She looked at the pink string and said, Oh, no. This is too bright, that's not it, but she didn't know what it would look like if it had been buried under the ground and after 30 years, because when the lines were laid, the pink string, obviously, didn't look like it came out of the package today, it would have been in the soil and she said things can degrade and colors change in the soil.

But it doesn't matter. We don't have to prove it's pink string or not, it's came out Chadwell -- well, Mr. Chadwell said it so it's something that's out there.

The point of the story is these fibers don't mean anything and she didn't find any significance. The People can't now come back and say, Well, it's junk science. We -- the actual scientist wasn't junk science. She was fine. We don't have any problem with her. It was trying to say that because she didn't find anything and maybe could have and wasn't asked to that you should come to a conclusion, so doesn't work that way.

We did have then the -- the ridiculous testimony, in my opinion -- well, it's my opinion of Jamilyn Holman, which I referred to, she was the woman across the street taking pictures out of her -- I think I put some up here. Taking pictures -- you can see the top of the roof. She's in her second floor bathroom, taking pictures out of the window. And there's a bunch of her pictures. You can't even see what this shows.

But whatever they show, she says, I heard this terrible -- there was a search over there. By the way, I don't like Ruben Flores staying there because he's -- you know, he's attracting all these people beeping their horns and doing things and so I went to his lawyers's office -- I'm sorry, his lawyers -- the Smart's family lawyer's office, Jim Murphy. I talked to the podcaster and sat on this for a year but I think they're moving a body. Then a year later they call Detective Cole I believe to Jim Murphy's office, while Chris Lambert was there with the witness a year later. But whatever the circumstances were, a year later she -- she says, Yeah, I saw this, they're moving a body.

So what do they do? So they get Shelby Liddell out there again, again the tech. Now, she's not a scientist, doesn't claim to be, she's an evidence tech and she collects stuff. She used to be the one that ran the booth and lock stuff up. She's not a scientist. She uses Bluestar, which is like Luminol, and it comes up with that stain.

Oh, my God, Mr. Peuvrelle, like there's a body that's put there. By the way, if there was a body put there it would have been 24 years later, okay? How is this body leaking fluids? It doesn't make any sense.

But there's no science behind it. It's just speculation, it's not proof beyond a reasonable doubt about anything. And it's kind of preposterous that people are going to be out there yelling in the yard about backing a trailer in. I don't know how many of you back trailers in and you can get good at it after a while and people are trying to help you. It's, no, turn that way, no, that way, that sort of thing.

Think about it. Why would somebody be secreting a body, taking a body surreptitiously and be yelling and drawing attention? It just makes no sense. You can't just suspend disbelief. That's what they say about science fiction and movies, you have to suspend disbelief; right?

You have to say, Okay. Wait. I'm just going to enjoy the movie and I'm not going to sit there and say, No, that can't really happen, I'm just going to go with it; right? You suspend disbelief. That's what people talk about when they're writing good fiction where they suspend disbelief so they'll just go with your story. That's not your job. Your job is not to suspend disbelief, it's to look at this and see if this is proven beyond a reasonable doubt.

So the People are offering this as proof beyond

a reasonable doubt that a body was there, for which there's no evidence, but then it was taken out. That's why it's not there, because Jamilyn Holman saw this where people were yelling at the trailer and the trailer was in the same place and there are blocks in front of it and the same thing. But nobody saw the trailer, take anything -- and what's in the trailer? It's a work trailer for Mr. McConville. And what's going to be in there? It's a work trailer.

Something activates the Bluestar. Could be blood, could be some other chemical. Doesn't mean -- that doesn't prove anything. It could be anything, okay? So -- and when they go to test it, it doesn't come back with blood and there's just one little spot that shows it's DNA, so what happened there? Somebody's DNA got there. And you can have touch DNA or Mr. McConville put his -- and none of it came back to the Flores' or Kristin Smart. So it's just -- it's not -- it's beyond speculation, it's just science fiction at that point but Mr. Peuvrelle wants to argue after all these years that he has evidence because they moved the body in this trailer and there just is no evidence.

Again, you know, Detective Cole did his job. And I don't want to praise him too much because he'll get in trouble being praised by a defense lawyer. I'm kidding, but let's face it. And he said -- he told you he followed up on all sorts of crazy leads and he wrote reports on them, he put them in the file. He said that

he put them in the file and the Prosecution has now taken the ones out of the file that they think might help make some kind of a story here if you suspend your disbelief.

It is important to also understand that -- and I'm almost done. I really am almost done because I've only got a couple more pages here.

It's important to understand that there's no other scientific evidence, none. If they're going to prove something beyond a reasonable doubt there should be real science, not junk science, not -- or whatever this was, and then speculation like it could have been. You know, that doesn't count, that's not science.

And, as I say, if you look at the logs from SERI, I think it was 666 -- I might even have that here. Oh, no. Got ahead of myself. I've got to talk about that before I go any further.

But if you look at the logs at SERI there were all sorts of things sent over to be tested and she said when she got the ones to test they were already opened and looked at by somebody else. She didn't know what they did but they were looked at by other labs. So they're trying to cherry pick something that can cause you to come to a conclusion without actual evidence.

Yeah. So then I have to get to the 11-A. And that's a -- that's the last subject, but there are a couple of quick things that you have that I wanted to point out that I didn't already.

One was Mr. Peuvrelle had made a big thing out of -- out of Paul Flores not getting the TV Guide and bringing it to the officer, and he said he could have shown what show he was watching when he got home.

If you were paying attention, that was not what the testimony was. The -- Detective Kennedy said, When did you leave? Well, I was watching television and I was watching a show. He left presumably when the show was over. And that's when I went to go to my sister's house, not when he came back. And it turns out when he said he went to his sister's house, that's when he went to his sister's house -- or started to, because he called his sister and he started walking and then he ended up going to the party. So it's nothing. And on top of that, Detective Kennedy probably had a TV Guide in there, and he said, Yeah, everybody had TV Guides back then. If he wanted a TV Guide, he could have found it. So the defendant has no duty to prove anything and, again, that's just innuendo.

The other thing that was innuendo that I just can't pass up here was the implication, and, again, it was referred to by Mr. Peuvrelle, that Ruben Flores, the gentleman who has been sitting there -- well, now he's out there with his headphones on, Ruben Flores is somehow involved in it. That wasn't proven at all. It's not your job to deal with that, that's the other jury, but certainly if there's no murder, no proof of a murder, obviously he couldn't be guilty.

But the interesting thing is what are they trying to dredge up to try to get people to believe this in this case that's being offered? Well, Ruben Flores, you know, said he was the only one that committed a crime. Listen to that. Are you kidding me? It's just a guy who's standing at the door and he obviously misspeaks and he corrects it right away.

Why are these other people -- why are you having my wife -- or ex-wife, still wife but kind of ex-wife status, why are you having Susan Flores and Mike McConville tested? Why are you taking swabs from them? They're not involved in this case, I'm the only one accused of this stuff. But he stayed committed. The point of the story, to use that to convict people of a murder, that's just ridiculous. I'm sorry to get excited but I had to bring that up.

And then the last thing I want to talk about before closing here is that we have the HemDirect stuff -- the HemDirect -- we have the DNA stuff on 11-A, okay? I'm getting myself confused, don't want to get you confused.

So the next subject, the mattress box spring cover, which they labeled as mattress cover but it clearly was not on the mattress, it was on the mattress cover. And they find a little spot, okay? And Mr. Peuvrelle brings this in here.

I'm -- well, the conclusion is the results are uninformative for either inclusion or exclusion. That's

the scientific conclusion. There's not limited support for -- there's not strong -- there's not very strong support. It's uninformative.

And then in comes Angie Butler, who wants to say, Well, you know, that's not quite what I put in my report. I said it was you couldn't include or exclude. But this was from her report, Exhibit 672. This is from her report and it's in evidence because we took that part of her report out and just put it up.

And then she circled it and had to admit -- remember, she was just trying to circle the one point and then she had to admit, that is my conclusion, she circled the rest of it. It's uninformative. You cannot find somebody guilty of murder based on uninformative scientific results. You can't consider it for any reason.

And I'm not going to go through all the science on that -- because it is interesting. So those of you who thought it was, that's great, and the rest of you don't do that, but if you -- if you look at it, the rest of the mattress cover tested -- had all sorts of background. Anybody's DNA could have been in there. This one, just about anybody's DNA could have accounted for this.

And, remember, if it was one person it wasn't the other, but it's not likely really to be either person. And the only way you got to that conclusion was using algorithms that said, Well, what if something

showed up? Well, it should have. We'll put that in that could have. What if something happened but it was a stochastic affect but something that should not have been counted and was counted? So we'll factor in all those things and maybe when you get down to running all the numbers, excuse me, it turns out that the results are uninformative. You can't convict somebody on that. That's just preposterous.

And again, you know, Dr. Johnson, who is a real Ph.D. expert in this -- excuse me. I'm sorry, get a little drink of water. Everybody wants water, now's your chance so I don't feel guilty. If everyone wants water you can request it.

Okay. So -- so that doesn't make any sense. That doesn't lead to a conviction.

And Dr. Johnson said that if you actually look at what's on the rest of the mattress it's strange that some of those other things didn't show up here because that was on the entire mattress that concluded -- they were equally excluded, Kristin Smart and Paul Flores, throughout the rest of the mattress or it was such a mess they couldn't figure it out at all but the rest of it excluded all of Kristin Smart and Paul Flores. So that's it.

All right. And here's the 666. This was a multi-page document that was admitted into evidence. Remember, we -- I had a summary and I showed it to the witness and she said, Really, I want to look at my

actual logs. And I said, Okay. And she took them out and we -- the clerk copied them and she put her originals back and I showed them to her and she said, Yep, those are my logs.

You can look at them, all the stuff that was submitted for analysis. There's no other scientific evidence in this case whatsoever, including, as you'll see, samples, swabs, and cut-off samples from the mattress itself. Nothing.

Okay. So I had hoped to give Mr. Peuvrelle some time before lunch but it doesn't look like we're going to quite have much time so I'm going to finish up now, promise.

The -- both parties in this case are entitled to the independent judgment of each person. This is not a matter of majority rule. It's not saying, Well, I guess I'll give in if other people think that, even if I don't. You must decide the case for yourself. This is a system we came up with -- we didn't, the jury system developed from -- goes back to ancient Greece, actually, but it's by way of England for our type of a jury system and here it's been around for, you know, hundreds of years.

And to the extent that it is a wise system it depends on each of the 12 people who go back in there to deliberate, actually doing the work themselves and deciding whether or not there's actual proof beyond a reasonable doubt and following all the other

instructions.

So the instructions say don't hesitate to change your mind if you become convinced you're wrong, but do not change your mind just because other jurors disagree with you. So you have to look at it. You can deliberate, you can talk about what the evidence was or was not, and then you have to end up, at the bottom line there, your role is to be an impartial judge of the facts, not to act as an advocate for one side or the other. You're there to determine whether or not there's actual proof beyond a reasonable doubt.

And now I am going to sit down and Mr. Peuvrelle will have an opportunity to present a rebuttal; that is, he gets to rebut what I said if he wants to. It's not a chance for Mr. Peuvrelle to get up and to argue his case again or just make emotional appeals to you, it's a chance -- and I'm sure he recognizes that and I'm sure he does. It's his opportunity to respond to things I said if he thinks he wants to do it.

You're the -- I will not have a chance to get up again. That's good news for you all but I'm just going to have to sit there, so I'm going to count on all the jurors giving fair hearing to what Mr. Peuvrelle says but ultimately remembering that it's the facts, the actual facts and the actual law that are what must guide you in this case. That's what this is all about.

The Prosecution has the burden. They have the

burden of overcoming this presumption of innocence and that's why they get the last chance to stand up here and talk to you one last time to rebut, not to make an emotional appeal but to rebut anything I said that wasn't correct.

I submit that they have not come up with a coherent theory of this case and it became less coherent yesterday before lunch when we had the Huasna is Arroyo Grande and all that sort of thing and a ramp that's a deck and just doesn't make any sense.

But give fair hearing to what Mr. Peuvrelle has to say. Remember, it's not the argument, it's the evidence or the lack of the evidence.

I want to thank you sincerely for your attention. I think Mr. Peuvrelle already did that on his behalf. I mean, there's no question this is a big sacrifice for people to sit through a trial like this and all the parties appreciate that.

I'm now going to sit down but when you submit -- when you examine all the evidence that was submitted to you, along with the law that was submitted to you, I respectfully submit that the only proper verdict in this case is not guilty.

Thank you.

THE COURT: Thank you, Mr. Sanger. Ladies and gentlemen, it is almost lunch so I'm going to release you for the lunch hour and I'm going to have you come back at 1:25 just so that we can all be in our seats at

1:30 and start right on time.

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.

And I please ask everyone to try and be on time. We cannot start unless we have everyone present.

Thank you.

(The lunch recess was 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 our jurors and alternate jurors.

And at this time are the People ready to make your closing argument?

MR. PEUVRELLE: Yes, your Honor. Good afternoon, again.

So I want to start by taking you back 24 hours ago, when Counsel first started giving his closing argument. Do you remember what he said? He said the People's entire case is a conspiracy theory. Everyone remember that? This is a conspiracy.

So he would have you believe that it's not just possible but a reasonable interpretation that 50-something witnesses, spanning 26 years, are involved

in a grand conspiracy to convict Paul Flores. He would have you believe that six dogs are involved in a grand conspiracy to convict Paul Flores. He would have you believe that even the media is on, with the dogs and with the witnesses, to convict Paul Flores. That's not possible, that's absurd.

Just for that, Counsel has presented you a binary choice. Is this a conspiracy theory? Is that the truth? Or is it true that Paul Flores is guilty of first degree murder?

MR. SANGER: So objection. Misstates the burden of proof.

THE COURT: Overruled. This is argument --

MR. PEUVRELLE: The only --

THE COURT: -- and you may continue.

MR. PEUVRELLE: Sorry, your Honor. The only reasonable conclusion, based on all of the evidence, is that Paul Flores is guilty.

But think about the dogs would have to be in on it. Remember when the handlers were on the stand and they were asked, Do you speak dog? Now I know why that question was asked. It's to prove that there was a conspiracy among the dogs.

Now I know why it was asked, Were your dogs friends? Because the dogs were able to get together and be part of the conspiracy.

And then the coup de grâce was, the Prosecutor put all of these people up to it. Well, in 1996, when

the dogs were speaking to their handlers and being friends with each other, I was a freshman in high school. It is so ridiculous, it is so absurd, you can reject it out of hand.

And then Counsel said, Conspiracy theories are fun. Okay, maybe you think it's possible that everybody, the dogs, are in on it. Did it look like the woman with the ball gag in her mouth was having fun in this conspiracy theory?

Did it look like --

MR. SANGER: Objection, your Honor.

THE COURT: Overruled. This is argument.

MR. PEUVRELLE: Did it look like Sarah Doe was in a conspiracy theory, having fun?

Did it look like Ronda Doe was involved in a conspiracy, having fun?

Did it look like Steve Fleming, proud man, he spent his life serving his country, was having fun being disrespected, with his words twisted around and thrown in his face?

Did it look like Margarita Campos, who was involved in a grand conspiracy, having fun with the conspiracy theory?

Did it look like Jennifer Phipps was having fun in a grand conspiracy, who had held on to the guilt of waiting 26 years for this to happen when she did everything she possibly could to raise the alarm that Kristin was gone and this was not right?

Did it look like anybody was having fun? No. Because this is not a fun case. I apologize but you have seen things in this case no human being should see.

There is no doubt that Kristin Smart is dead. The People's theory of the case is very simple. I never said she was buried in Huasna. I said that Paul Flores murdered her and buried her under his father's deck at 710 White Court. That's it. This case really is that direct and that simple.

Now, with regards to the Other Act Evidence, that's Instruction 1191A and 375, what they say is that they're one factor to consider with the evidence when determining the things that you can use them for.

Those instructions do not say you must first decide the case, decide whether there was a rape, and then look at this evidence because, obviously, why would you hear this evidence if it wasn't meant to be considered as part of the case?

So when you read that instruction, look to 1191A. I think the first line is, It is one factor to consider with all of the evidence. Makes sense? All of the evidence. And then after you consider it with all the evidence, if you believe a rape did not occur, then you can't use that for the other theory of murder, okay?

So you heard the other acts for the felony murder theory of murder. So if you find, based on reviewing the other acts, that for some reason Paul didn't intend to rape Kristin, then you can't use those

other acts when deciding if it was willful, deliberate, and premeditated.

Now, let's talk for a second about what that 1108 tells you. It tells you that Paul Flores was a serial drugger in addition to a serial rapist. And for you to vote not guilty you would have to believe that a serial drugger, who enjoyed raping drugged women, had Kristin Smart to himself, by himself, feet from his dorm room, and yet let her go. You would have to believe that, which is so absurd as to be ridiculous.

Not only would you have to believe that to vote not guilty, you would have to believe that he let her go and then she magically regained her faculties -- because she couldn't walk, remember?

She magically regained her faculties and didn't walk to her room, didn't walk to her friend Margarita's room, didn't walk to her friend Jen Phipps's room, didn't walk to her friend Felipe Arias's room, but somehow decided to leave her cherished siblings, who she was a mini-mom to; somehow decided to leave her parents, who she called dutifully and faithfully every single Sunday, you would have to believe all of that, which is not even possible, that is absurd.

Now, Counsel talked about Detective Cole and Detective Cole's testimony with regards to Jennifer Hudson. Detective Cole was testifying that he couldn't find Red and couldn't corroborate Red. Well, does that really surprise you that we couldn't find a Red in the

needle of a hay stack of Southwest United States?

He also testified that he couldn't find corroboration that Paul Flores was a skater. Well, because Jennifer Hudson never said he was a skater, she said he had a skateboard.

And, ultimately, Detective Cole's role was to do what he did, cross every "t," dot every "i," get as much evidence as he can so that you could review it.

So it is your role to determine if there is corroboration, and you don't need corroboration because one witness is enough if you believe them. And did she look like she was having fun as she sobbed to herself with the guilt of knowing she could have come forth earlier?

But you do have corroboration. You have what Paul Flores actually said, the description of how he would have viewed Kristin Smart's behavior; that he, in fact, killed her; that he buried her.

Remember, they ran in different social circles. She ran with a skateboarding crowd, he ran at Cal Poly. How would she know that he said virtually everything that we now know in 2022, except for the Huasna part?

And my point with the Huasna part is that Huasna is the next city over from Arroyo Grande. So everything in what he said was correct to her except for one thing. And why would he give up the location of the body? He wouldn't. That's why her statement in and of itself is so believable.

But then in 2004 she confides in Justin Goodwin. Does it really surprise anybody that you confide to somebody you're so close with when maybe you have a few too many? That's exactly what would happen.

And Counsel tried to say Goodwin was in it for the reward. Let's see. This is a great way to get a reward. Let's submit a tip anonymously. That's a great way to get a reward; right? Then let's wait 17 years to follow up on it, but not contact police to get the reward, let's contact the media.

So that tells you Justin Goodwin believed what Jennifer Hudson told him with all of his heart because despite him promising not to tell police about it he did, because he believed her to such a degree that he thought it was the right thing to do.

And he talked about the trucks, which corroborates what she said. He talked to the pond, which corroborates what she said.

And Brent Moon came in and testified -- I don't have to put up my PowerPoint again, do I? Everything he said corroborates what she said. That's up for you to decide.

Counsel described -- I don't want to say it but he claimed at-risk behavior of Kristin at a party. And what he said was she kissed a guy and had a drink at a college party, and that's supposed to be at-risk behavior? Sure. Pick on the girl who's dead and can't defend herself.

This is not about what she was wearing that night, other than we found red, black, and colorless fibers in the soil where blood was found. This is not about whether she kissed a guy at a college party. That doesn't mean you can get murdered. The only at-risk behavior on the part of Kristin Smart was existing in the same zip code as Paul Flores.

I think just about every witness was insulted in some way here and there's a saying that I heard in law school, which is if you have the facts, argue the law; if you have the law, argue the facts; and if you don't have both, insult the other side. And that is what you heard for six hours as a textbook, that everybody is in a conspiracy, which means you have to believe people came up here and just lied, lied, lied, lied, lied, lied, which is impossible.

Counsel talked about the variation in the soil samples. Well, they're different samples. So let's say -- hypothetically, let's say we dig ten holes and let's say you put a murder weapon in one of those ten holes. The other nine are empty. You dig them all up. Well, nine of those holes are empty. Does that invalidate the fact that you found a murder weapon in the one hole? Absolutely not because they're different samples. Same application here.

Counsel talked about the fact that the entire wall was dredged when it was built. Well, that's why I showed you the entire anomaly printout with Phil Hanes,

because the anomaly was only six-feet wide. So if the anomaly was from the entire wall for the deck being built down you would see the anomaly running the entire course, instead you saw it only six feet. That's what tells you that had nothing to do with the digging by Ed Chadwell.

What did Ed Chadwell tell you? He dug this hole with a backhoe. And Cindy Arrington, who has done hundreds of excavations, said this was done by hand because there were no mechanical markings. So it's done. You know this hole was not dug during construction.

Now, Counsel called Elizabeth Johnson to the stand, whose last paper was 1997 and whose last time at an accredited lab was 1997, when Bill Clinton was President. Maybe she did good work in the 90's, but in DNA land that's ancient history.

She's never used a HemDirect in an accredited lab, never. So when you hear the law that someone was designated as an expert you can reject that, and I urge you to reject her as an expert in the HemDirect test. How can somebody be an expert in a test that they've never used? You guys know as much as she did. She said, I read the insert and I read two studies. She's not an expert for this specific test.

Now, she said she needed a validation study for soil. Well, she's been on the case for 14 months. She could have done a validation study. If that was so

mission critical to showing that HemDirect is ineffective in soil and you should not rely on it she could have done it, but she didn't. So what does that tell you? She's getting paid $2,000 a day and it's not about the truth. Because if it was she would have billed them to do a validation soil study to make more money, but instead she wordsmithed her opinion.

So what did she say? She said that "extensive validation studies similar to this situation must be done," and that is literally impossible. So we're supposed to find a human body from somebody who donated a body, bury the body for 25 years, in a spot that's protected on one side by a wall, a deck, and a lattice. We'll just wait. We'll just wait until 2047 for those validation studies, that she points to no literature where you need a validation study, it's literally just her opinion, and then dig up that body and then 14 months later, in 2048, test that soil. So what she's saying is required is literally impossible, and that's the point.

Now, this case provides you with a real world study to assure the reliability of these soil samples. Now, what do I mean by that? Remember Shelby Liddell? She took control samples. She took control samples from every single corner of that property, and I had her mark on the map where all of these soil samples were taken from these control samples. All of them tested negative for human blood. That's the point of having a control

sample.

Over 13 samples tested positive for human blood within the darkest portion of the stain. In the not sticky, not darkest portion of the stain they tested negative. That right there, folks, is a real world application of the HemDirect test in soil, in this situation, in the facts we have here.

Now, we also know this business with the pH is a complete red herring. It's a complete attempt to confuse what's really going on here. Angie Butler testified that she used the manufacturer's buffer for every single test that she did in this case. Everyone remember that?

And even that e-mail from Germany, with the misleading question from Elizabeth Johnson about being exposed to soil, not in soil -- I hope I -- I didn't mean to be too sarcastic but I hope everyone got what I was getting at. Germany said if there's pH in the soil the buffer should take care of that. So Germany, even though that e-mail was unclear, confirms that the buffer fixes the pH.

But what else do you know? I talked about the real world validation study. If that soil on that property was so acidic all of those samples would have tested positive, but instead they didn't. So that's what tells you that these results were valid and confirms what Angie Butler was telling you. And, in fact, they would all be positive and the backyard of

Ruben Flores' house would look like a blood bath. There would be blood everywhere. You'd have hundreds of samples if it was about the pH being level.

And notice she never even said the results were invalid; right? She just said you need extensive validation studies. She never once testified that the results were invalid.

And then Dr. -- Elizabeth Johnson's obvious bias when saying this is like a pregnancy test and that a binary result but then said the weak positive shows that it's invalid. Well, which one is it? Is it binary, positive or not, or are there intermediaries? So that was internally inconsistent with her testimony.

Elizabeth Johnson said she exists because Prosecutors have their own labs. Everyone remember that? Well, not in this case. Oops, we didn't need her. We have Angie Butler from SERI, an independent lab who works for Prosecution and Defense. That is why SERI was retained on this case, because it is an independent lab so you wouldn't have to consider that argument. You know what? If we hadn't, I bet you Defense would have hired Angie Butler, a 20-year vet who's done this test a thousand times. That's who they would have hired.

Counsel discussed Ms. Ronda Doe and tried to cast dispersions on her testimony just because she went to Cal Poly but if you think about it she was at Cal Poly from '96 to '97 and you've only heard evidence that Paul Flores was there from '95 to '96, so there's no

guarantee that they overlapped at all.

And if she did run into him at Cal Poly and was aware of him, what do you think she would have done the second she saw his face? She would have run for the hills. So that tells you that her testimony is corroborated. There's no big deal that she went to Cal Poly.

And, in fact, Investigator Camp went to Cal Poly. Should you throw away all of his testimony because he went to Cal Poly? We could never have anybody who went to Cal Poly in this case. Everybody who went to the party, no, can't trust them. All of Kristin's friends, no, you can't trust them. That's absurd and you should reject that argument.

Counsel said that Paul Flores was consistent. Well, repeating a lie over and over again that Kristin was walking just fine doesn't make it the truth. So for hundreds of years people said the earth was flat; right? Said it over and over again, doesn't make it true. Just like in this case. If you repeat a lie over and over again you might start to believe it but it does not make it true.

Now, remember that Heathcliff example from voir dire, which we talked about the sugar on the little boy's face and the crumbs on his shirt and mom comes in and says, Hey, Heathcliff, did you have the donut and he says, Mother, I cannot tell a lie, I did not eat that donut, and we all said, yeah, that makes absolute sense

because you're going to deny something if you want to get away with it?

But then Counsel said, Yeah, but what if the big sister came in and ate it? There's no big sister here, is there? Because Paul Flores killed Kristin Smart.

The dog handlers had thousands of hours of training and experience, literally thousands of hours. And I almost want to apologize again because I took so much time with the foundation for their qualifications for this exact moment, so you would understand the degree to which they are experts in this particular field. The fact that they're volunteers actually gives them more credibility because it means they do this for the love of what they do.

And Adela Morris has been doing this for 35 years. You think if she wasn't the best of the best she wouldn't have advanced so far in what she did? Same thing with Gail LaRoque, same thing with Wayne Behrens. They are literally the best at what they do.

Adela Morris never testified that dogs would alert on vomit, that's just not true, and typically no juror questions in closing but I appreciate somebody pointing that out. Even if it was true, you heard Paul Flores said he vomited a little bit in his mouth; right? That's what you heard. So it's not like he vomited all over his room and, well, that's what the dogs are hitting on, that's what they're alerting on. No. One,

they don't hit on vomit. Two, it was a little bit in his mouth.

But it leads me to my next point, which is statements of attorneys are not evidence and Defense's closing shows you why the law tells you this. There were so many misstatements of fact I stopped counting. And I don't want to keep you here until 4:30 going through every single one so I'll leave you with if any one of you go back there and say, Oh, but I heard this in Defense closing, please request read back of the actual evidence, because that is what happened in this case.

And then we get to David Carter. And I augered down on his opinion for this reason. His opinion is you cannot visually confirm human remains. "You cannot visually confirm human remains." Hopefully you remember me locking that in.

And I did that, and I don't think this is a legal term, but, duh, you can't visually confirm human remains? Any one of you could have testified to that. I could have testified to that. That is not what this is about.

He said you cannot visualize -- visually confirm human remains because no bones, no clothing, no hair, and the staining can't be certain it's human decomposition; right? So that's it.

And then he said, Well, the person who would be best positioned to really identify this grave site would

be somebody who was actually present and could actually stand there and look into this grave site and evaluate with their own eyes; not from pictures, which had shadows in them and the lighting was difficult, but to actually see them with their own eyes.

Well, we had that, thankfully, for you in this case in Cindy Arrington, who testified that the staining in the grave site was different than staining in every single other excavation that they had.

And he's not actually an expert in what's at issue here, the digging. That's the most important part of Cindy Arrington's testimony is that this was actually dug by hand, not by backhoe. That was uncontroverted.

She testified that this was clearly dug up, something put in, leaked, dug back out again because of the lack of stratigraphy and the breaking of that pattern. That is unrefuted.

And he said he was doing this for free but did you also hear this is the first time that he's testified as an expert witness? You heard how much Elizabeth Johnson makes, $2,000 a day. This is Dr. Carter's big break to get into the game of testifying.

Because if he was really after the truth, what do you think he would have done? He would have gone to 710 White Court and looked in that grave site. He even said, I was in California for 48 Hours before I testified. If the truth was, Hey, this was not a grave site, don't you think he'd bomb on down the 101 and go

check it out? Don't you think Defense would drive him there themselves? You better believe so.

And he never once addresses the surface disturbance. This was probably the most -- one of the most important parts of Phil Hanes's testimony, that the surface was disturbed, which is what you have in a clandestine grave. Because if the surface isn't disturbed it's naturally occurring below it. So David Carter never once refuted that because he's not a GPR guy. He never once refuted that the anomaly was the perfect size of a human body because he's not a GPR guy.

And then you have the issue of the lamellae. Well, what did David Carter say? He said, I've never seen one in person. You remember that? And then he says, I read it in a book once. I've read a lot of things in books, doesn't mean I'm an expert on them.

He said, It's something unique to this area of the country. Well, we have a forensic archaeologist who is unique to this part of the country in Cindy Arrington and she testified that the stains in the grave site were not like anything else anywhere else on that property and the stains in the grave site just happened to be the length consistent with a human body, happened to occur on both sides of the grave site. That's what Shelby Liddell testified to. Just happened to be the right height of a human body and just happened to be two to four feet down the hole where we found human blood.

He didn't testify it was lamellae, he said it

could be. That's another one of Counsel's misstatements. He said it could be. Well, when you look at all of the evidence there's just no way, and he's not an expert in that.

So you folks are actually in a better position to judge this than any of those witnesses because you have heard all of the evidence in the case. You heard the testimony of Phil Hanes, you heard the testimony of Cindy Arrington, you heard the testimony of Angie Butler, Faye Springer, and even Carter and Johnson.

They -- Carter did not have the benefit of hearing that testimony, did not have the benefit of hearing about Angie Butler's experience with the HemDirect and how reliable it is and how she's gotten samples going back not just 30 years but to the 1970's. So you can put this all together, like the law asks you to do, like none of them can.

Counsel discussed Tim Davis and a statement in 1996 where Paul was walking outside with others. That's not any different from what he testified to. He testified here he came from the darkness. In '96 he said he was walking with others. It doesn't mean there wasn't anyone else there from the darkness, it doesn't mean it was darkness when he was walking with others, the point is that he was waiting outside and targeted Kristin Smart. That is the takeaway and on that Tim Davis was consistent and unambiguous.

Now, in the early part of the case, I don't

know if everyone remembered this, Counsel asked J.T. Camp whether he did anything to exonerate Paul Flores and J.T. Camp said, I saw nothing in the file that would exonerate Paul Flores.

Now, we know this is human blood found in this grave site. I was kind of waiting last week for evidence of the Flores Family Ferret Farm that they had for years down there and that we were going to see carcasses after carcasses of ferrets. I was kind of waiting for evidence of the Flores Family Gorilla Sanctuary, that there was evidence of higher primates up there. So it is 100 percent beyond any doubt human blood.

If it was anything other than Paul Flores murdering her, her body would have turned up somewhere because, as I said yesterday, you can't die and then hide your own body, which means she was murdered. And if she had wandered off somewhere, she would have been found by now. That's the benefit of 26 years. If we had tried this case in 1996 you would not have the benefit of that knowledge and perspective.

Now, with regards to the anomalies that Phil Hanes testified to, only one of those anomalies fit the perfect-sized dimensions for a clandestine grave site. If this was really an avocado tree dig out -- never mentioned this was dug out by a backhoe, that Counsel wants you to believe, this was an avocado grove -- you would have seen grave site anomalies throughout 710

White Court. Anomalies would have shown like a cemetery with all the trees that were taken up. You would have seen four by six by four, four by six by four, four by six by four, four by six by four if it was really an avocado tree with human blood in it. That's ridiculous.

I'm going to go through some of my notes. I have maybe five minutes left and then you'll have the case

Counsel couldn't provide a reason for his client's incessant lying, especially when he said that Kristin couldn't walk. There was no answer for that because there is none because she was incapacitated.

And why lie about the fact that she couldn't -- that she was walking just fine and that she wasn't incapacitated? Because he knows you can't try to have sex with somebody who's too incapacitated to consent. Everybody knows that. That's the only reason to lie about that.

Counsel discussed Karen Hall. I never said she didn't say anything -- or he didn't say anything. He said -- she said, What did you do with that girl? He said, Nothing, and hung his head in shame. What I said was she testified he never spoke to her again. That's the takeaway.

Counsel argued that people inserted themselves in this case. So because everybody except for the defendants moved heaven and earth to try and find Kristin Smart, that's somehow a reason to let the

defendant off with murder? No, I don't think so. That's ridiculous.

Still no alibi for Saturday morning, still no identity for the person in that bathroom, because they don't exist, because he was murdering Kristin Smart and planning to bury her body with his dad.

Counsel said somehow it's a new emphasis on the adoptive admissions that I discussed. Well, if you remember I actually showed you all of those audios in my opening statement so there's no new emphasis. They've been important from day one.

Counsel said Jennifer -- or Jamilyn Holman was not believable but what she said was she had never seen Mike McConville and Susan over there before and didn't see them again after that and they stayed the night. That was so unusual about that. That's unrefuted. No other reason why they were there and never came back.

Counsel claimed that Ruben's -- Ruben Flores' bedroom contained all sorts of hate mail. Well, it wasn't hate mail. It was an essay contest for Kristin Smart. That's not hate mail. It was a note about digging the yard. That's not hate mail. It was a poster of her face that he had kept in his bedroom like some sick trophy. That's not hate mail. That tells you he had a weird, perverse obsession with Kristin Smart because she was buried under his deck. It was his trophy room.

Counsel discussed Mr. Steve Fleming.

Mr. Fleming said, in 1999, he saw Paul Flores five to six times in Kristin's room and what he testified to was he could only remember one time so, yes, 20 years have passed, but his memory goes to Defense's benefit. That's why I could never understand the -- the way and tone of those questions to Mr. Fleming because Mr. Fleming was trying to be accurate.

He could have come in and said, Well, if I said five to six to the FBI, that's what I said and that's what's in there. He said, I honestly just remember one, because he was doing his best to remember with specificity.

And when his words were being twisted against him he said, I don't remember. Can I please refresh my memory? Everyone remember that? He wanted to refresh his memory with his reports because he saw his words were being twisted and he wanted to be accurate.

So the fact that he said five to six in '99 and said, I honestly, in my heart of hearts, just remember one tells you he is being as accurate as he possibly can and you can take it to the bank that he saw Paul Flores in Kristin's dorm room, uninvited, making her uncomfortable, when nobody else was there.

Does it surprise anybody that Paul Flores would not stop by Kristin's room when her roommate was gone? He wouldn't stop by her room when her roommate was there. He wouldn't stop by her room if her friend Margarita Campos was there.

Now, Counsel said Paul Flores was, quote, pummeled by police officers. Well, thankfully, this is all on video so you can see that actually, no, it was a quite collegial interview and yet he still lied through his teeth. Nobody forced him to lie through his teeth.

Counsel discussed David Stone and the issue of the plumber and said that no, he sent the plumber away because he was going to fix it himself. But if Ruben Flores was going to fix it himself he would have done it, he wouldn't have called a plumber in the first place, so that doesn't make any sense at all. The only thing that makes sense is he didn't want a plumber poking around underneath his deck because that's where Kristin was buried.

Counsel said, I don't know what the -- what caused the staining in that excavation. We all know, Kristin's blood.

Counsel stated that David Carter was not an archaeologist. That's exactly the point. Because what's at issue here is the fact that something was dug up, put in, fluids leaked out slowly, and was dug back out again, and when you dig it back out again you dig up any evidence that somebody was there.

So again, I don't have to prove this beyond all doubt, it's just beyond a reasonable doubt. So what Defense is saying, this conspiracy theory that everyone is in, is possible but unreasonable. You still hold the defendant accountable for his crimes so you look at all

of the evidence and compare.

So this case is just proved at Tim Davis and Cheryl Anderson and the defendant's lies. That's all you need to prove this case. Because if somebody were to lie so pervasively about somebody who is gone for 26 years you know that they did it. And Tim Davis told you that she was incapacitated and Cheryl Anderson told you about Paul Flores' intent that night, his sexual intent. The case is just proved at that.

But if that's not enough -- and that tells you that Kristin was incapacitated and that he took not just one step but several steps towards trying to get her alone to have sex with her, because what else was he going to do with her, just sit there and stare at her?

And if that's not enough you have the evidence that he was hunting her. You have the testimony of Steve Fleming, of Vanessa Brinley, Margarita Campos.

And if that's not enough you have the testimony of her family, who told you that she would never, never leave them. She was their mini-mom and their biggest cheerleader and that she would never have missed a single birthday, a single wedding, or a single Christmas.

And if that's not enough you have his body language during the interview, where he remembers with specificity this pool game where he sunk the eight ball on this and that but then when it comes to critical questions, well, I had a blackout, right, which is

ridiculous.

And then if that's not enough you have Ruben Flores' guarding of the deck, you have the dogs underneath the deck, you have him getting rid of Angie Carrizel, not letting David Stone store stuff down there, not letting the plumber down there.

And if that's not enough you have Jamilyn Holman's observations that they were backing a trailer up and were frustrated by it, had to remove a fence, right, at the same time, which just happened to come four days after a search warrant was executed, where they took pictures of the deck so they knew they were coming back and they had to move Kristin and fast.

And if that's not enough you have the Bluestar lighting up like a Christmas tree in this dirty old trailer, where they just happened to clean it with bleach for a two-foot area? There's no reason to clean that spot where the door was right next to that deck unless Kristin was there and you're trying to destroy evidence of a crime.

And if that's not enough you have the anomaly size and location in the perfect place to hide a body, blocked by a deck, a house, and lattice work, and a hill, with no neighbors behind you.

And if that's not enough you have the surface disturbance.

And if that's not enough you have the size of the anomaly.

And if that's not enough you have the staining that starts at two feet, just happens to be consistent with the burial.

And if that's not enough you have 13 positive human stains for blood.

And if that's not enough you have the cadaver bathtub ring stains on both sides that just happen to be the same size as a human body.

And if that's not enough you have the fact that this was dug by hand, not by backhoe.

And if that is really not enough, you have multiple red fibers, multiple black fibers, multiple colorless fibers, which just happens to be the colors of the clothes Kristin Smart was wearing the night Paul Flores killed her.

And if that's not enough, then what you seek is perfection, which does not exist.

You know, sometimes we tell our kids that monsters don't exist, but they do, and you've seen it during this trial.

What I ask from you is the same thing I've always asked, is to render a truthful verdict. Compare and consider all of the evidence, render the truthful verdict that Paul Flores is guilty of first degree murder.

Thank you.

(The closing arguments were concluded.)

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 - 115, comprise a full, true, and correct transcription of my stenographic notes in the aforementioned case of the closing arguments held on October 4, 2022.

Dated November 22, 2022.

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