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APPEARANCES

Ms. Amanda Maxfield-Green and Mr. Charles Brown, Assistant United States Attorneys, U.S. Attorney's Office, 210 West Park Avenue, Suite 400, Oklahoma City, Oklahoma 73102, appearing for the United States of America.

Mr. William Earley and Mr. Kyle Wackenheim, Assistant United States Public Defenders, 215 Dean A. McGee, Suite 124, Oklahoma City, Oklahoma 73102, appearing for the defendant.

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ALAN GLOVER - Cross by Mr. Wackenheim

1 (The following record was made in open court on March 28,
2 2019, in the presence of all parties, counsel, and in the
3 presence and hearing of the jury.)

4 THE COURT: Good morning, ladies and gentlemen.
5 Welcome back.

6 Mr. Glover, I remind you, you are still under oath.

7 Mr. Wackenheim, you may continue with cross-examination.

8 **CROSS-EXAMINATION (continued)**

9 **BY MR. WACKENHEIM:**

10 Q. Mr. Glover, moving back to the three phones that you had.
11 Do you remember having three phones in this period of time?

12 A. Yes, sir.

13 Q. There was a phone you had before you left the park in the
14 fall of 2017?

15 A. Yeah.

16 Q. And you testified you gave that to Mr. Passage. Do you
17 remember that?

18 A. Yes, I did.

19 Q. And then there was a second phone that you received at about
20 the same time. Do you remember that phone?

21 A. Yes, sir.

22 Q. And that's kind of been called the pizza phone?

23 A. Right.

24 Q. Why are we calling it the pizza phone?

25 A. It was bought for the pizza restaurant, to make phone calls

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ALAN GLOVER - Cross by Mr. Wackenheim

1 with -- in and out for takeout.

2 Q. Did you take that with you to South Carolina?

3 A. Yes, sir.

4 Q. And did you get a third phone while you were in South
5 Carolina?

6 A. Yes, sir.

7 Q. And to your knowledge, all three of those phones, does the
8 Government have those?

9 A. They have two, and the one I got now is the one I got when I
10 got here. So that has nothing to do with this situation, the
11 phone that I have now.

12 Q. Fair. And we're not asking about any phone you have now.
13 But the three phones we just talked about, the earlier phones,
14 the Government has those phones, correct?

15 A. Yes, sir.

16 Q. And you gave them two of those phones?

17 A. Yeah.

18 Q. And who gave them the third phone?

19 A. I'm not really sure how it got to them.

20 Q. Okay. But you know they have it?

21 A. Yeah.

22 Q. Okay. Now, in the fall of 2017 when all these events
23 happened, you were complaining to Jeff Lowe you wanted off the
24 park, right?

25 A. Yeah.

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ALAN GLOVER - Cross by Mr. Wackenheim

1 Q. In fact, on October 26, 2017, you texted him --

2 MS. MAXFIELD-GREEN: Your Honor, objection; hearsay.

3 THE COURT: Mr. Wackenheim?

4 MR. WACKENHEIM: Your Honor, it's his own statement.

5 These are -- I mean, I'm not asking about an out-of-court
6 declarant. I'm asking about Mr. Glover's own statement from a
7 phone in the Government's possession whose authenticity has not
8 been called into question.

9 THE COURT: Overruled.

10 Q. (By Mr. Wackenheim) Do you recall on October 26th, 2017,
11 texting Mr. Lowe, "Yeah, I know, I'm trying to get me a plane
12 ticket out of here"?

13 A. I may have said that, yes.

14 Q. And did you also ask -- well, do you also recall texting on
15 the same date -- actually, the next day, depending on how the
16 time zone works, but roughly the same time, quote, Should I get
17 my ass up in the morning and go to work like I always do, see how
18 it pans out. If not, he'll get me a ticket tomorrow, F'g Jeff, I
19 don't want to leave here, I love this F'g zoo, dude."

20 Do you remember that?

21 A. Yeah, I believe so.

22 Q. And you're asking him what should I do?

23 A. Basically.

24 Q. And what did he tell you to do?

25 MS. MAXFIELD-GREEN: Your Honor, objection; hearsay.

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ALAN GLOVER - Cross by Mr. Wackenheim

1 THE COURT: Sustained.

2 Q. (By Mr. Wackenheim) As a result of your conversation with
3 Mr. Lowe, what did you decide to do?

4 A. I eventually left. That's why we're here.

5 MR. WACKENHEIM: One moment, Your Honor -- well, we'll
6 move on.

7 Q. (By Mr. Wackenheim) And I think you had testified earlier
8 that you were waiting on some money before you decided to leave;
9 is that right?

10 A. Yes, sir.

11 Q. And you were waiting on money from someone who was going to
12 purchase a big cat, right?

13 A. I was?

14 Q. Well, somebody was. You were waiting for money?

15 A. Yeah.

16 Q. And that was going to be from the purchase of a cat?

17 A. From a cat, yes.

18 Q. That was your testimony?

19 A. Yeah.

20 Q. And was it a man or a woman that was supposed to purchase
21 this cat?

22 A. A man, it was a man.

23 Q. Could you please boot up Clip 1 of Government's 59?
24 (Video played in open court.)

25 Q. (By Mr. Wackenheim) So when you were speaking to

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ALAN GLOVER - Cross by Mr. Wackenheim

1 Mr. Garretson, was it a man or a woman you were waiting for?

2 A. I wasn't waiting on anybody. I was waiting on Joe to get me
3 my money that I needed to leave with.

4 Q. Was it your understanding that that money was coming from a
5 man or a woman?

6 A. I believe a man. A man brought it.

7 Q. So but you told Garretson --

8 A. I don't know who he got the money from.

9 Q. When you were speaking to Mr. Garretson on that clip, did
10 you tell him you were waiting for a woman to bring the money for
11 Joe?

12 A. If I did, it was a mistake.

13 Q. Now, when you -- you testified you were the individual that
14 went and got this cub?

15 A. Yes.

16 Q. And gave it to a man?

17 A. Yes, in the back parking lot.

18 Q. And you described him as -- did you say hobo looking --

19 A. Hobo, kind of hobo looking. He was kind of --

20 THE COURT: Mr. Glover, be sure and let him finish his
21 question before you start to answer.

22 Q. (By Mr. Wackenheim) So can you describe what you meant by
23 "hobo looking"?

24 A. Raggedy clothes, raggedy car. Looked like he lived in his
25 car, not somebody that should be buying a cat.

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ALAN GLOVER - Cross by Mr. Wackenheim

- 1 Q. Did you notice anything distinguishing about his face?
- 2 A. Bearded kind of roughly.
- 3 Q. During your communications with Mr. Lowe, did he help you
- 4 figure out who you thought that person was?
- 5 A. I'm not sure what you mean.
- 6 Q. Well, at some point you identified who you delivered that
- 7 cub to, correct?
- 8 A. Yes.
- 9 Q. Who helped you identify who you delivered that cub to?
- 10 A. I did. I'm the one that saw the picture and I said that's
- 11 the person I'm sure I gave that cub to.
- 12 Q. Who showed you that picture?
- 13 A. I want to say the Government did, I believe.
- 14 Q. Did Mr. Lowe previously show you that picture to confirm
- 15 whether or not that was the person?
- 16 A. I'm pretty sure, yeah.
- 17 Q. So the first time you confirmed who it was, that was with
- 18 Mr. Lowe asking you?
- 19 A. Maybe so. I'm not sure exactly which way it went, but yes.
- 20 Q. In the white book, can you turn to No. 62 in front of you?
- 21 A. We went through this yesterday. I can't see it, sir.
- 22 MR. WACKENHEIM: May I approach, Your Honor?
- 23 THE COURT: You may.
- 24 Q. (By Mr. Wackenheim) What is that piece of paper in front of
- 25 you?

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ALAN GLOVER - Cross by Mr. Wackenheim

1 A. It's a picture of the guy that I handed that tiger to, that
2 cub.

3 Q. So you recognize that individual?

4 A. Looks just like him, yeah.

5 Q. The man that you delivered the cub to?

6 A. Yes, sir.

7 Q. Okay.

8 MR. WACKENHEIM: Defendant moves for admission of
9 Exhibit 62.

10 THE COURT: Any objection?

11 MS. MAXFIELD-GREEN: No objection.

12 THE COURT: Defendant's 62 will be admitted.

13 Q. (By Mr. Wackenheim) And so is that the individual you
14 delivered the cub to?

15 A. Looks like it, sir.

16 Q. Do you know his name?

17 A. No, I do not.

18 Q. Now, around this time did you -- I think you testified you
19 gave your phone to Mr. Passage.

20 A. Yeah.

21 Q. And why did you do that?

22 A. He wanted it for some reason, and I didn't really care,
23 didn't ask why.

24 Q. Had you had that phone for a long time before you gave it to
25 him?

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ALAN GLOVER - Cross by Mr. Wackenheim

- 1 A. I have had a bunch of phones.
- 2 Q. How about that phone?
- 3 A. I'm not sure exactly how long. It could have been several
4 months. I guarantee it wasn't past six months. I haven't kept a
5 phone like that in -- it get broke.
- 6 Q. Would you be surprised to learn that that phone had over 600
7 contacts, people that you had saved in your phone?
- 8 A. Oh, it's hard to believe, but it's possible.
- 9 Q. And that you had over 3,000 text messages saved in that
10 phone, do you have any reason to disbelieve that?
- 11 A. No.
- 12 Q. And so you had no problem handing this phone over that had
13 all of this information to Mr. Passage?
- 14 A. At the time I didn't.
- 15 Q. But you knew it was going to be mailed to Mr. Lowe, correct?
- 16 A. No, sir.
- 17 Q. But didn't Mr. Lowe know that the phone was coming to him?
- 18 A. Not that I know of.
- 19 MR. WACKENHEIM: Would you play Clip 6?
- 20 Q. (By Mr. Wackenheim) I'm going to show you a portion of
21 Government's Exhibit 59.
- 22 (Video played in open court.)
- 23 Q. (By Mr. Wackenheim) So that's you on this recording,
24 correct?
- 25 A. Sounded like it.

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ALAN GLOVER - Cross by Mr. Wackenheim

- 1 Q. Talking to Mr. Garretson, correct?
- 2 A. Yes, sir.
- 3 Q. And you're talking about Mr. Lowe, correct?
- 4 A. Yes, we were.
- 5 Q. And when -- when you're describing Mr. Lowe, you say he's
- 6 not even answering my phone calls.
- 7 A. Right. He's --
- 8 Q. And then Mr. Garretson asks really, and you say, he knows
- 9 what is going on.
- 10 A. Oh, yeah, about what I was there to do at the park.
- 11 Q. And then Mr. Garretson asks you, I thought he was coming
- 12 back next week. Coming back from where?
- 13 A. I would think Vegas.
- 14 Q. And then you say, he could be, everybody thinks I'm going
- 15 there.
- 16 A. Yeah, I spoke -- Joe and I had planned out to let people
- 17 know that I was going to South Carolina and then going to Vegas,
- 18 basically.
- 19 Q. So that "everybody," that word did not include Mr. Lowe?
- 20 A. Jeff didn't know nothing. Not to my knowledge, he didn't
- 21 know nothing. He wasn't supposed to know anything either.
- 22 Q. Okay. I think you testified that when you went to South
- 23 Carolina you were picked up by your daughter?
- 24 A. Yes, sir.
- 25 Q. But you didn't stay with her?

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ALAN GLOVER - Cross by Mr. Wackenheim

- 1 A. No, sir.
- 2 Q. You stayed with a friend, correct?
- 3 A. Right.
- 4 Q. What was your friend's name?
- 5 A. Dave Teffer (phonetic). I stayed there for a night and then
- 6 I went and stayed at a friend of mine's house for a while, while
- 7 I was there anyway.
- 8 Q. And that second friend, is that the one whose house you
- 9 cleaned?
- 10 A. Yes, sir, kept the yard up.
- 11 Q. What was that friend's name?
- 12 A. Paul White.
- 13 Q. And where does Paul White live?
- 14 A. South Carolina.
- 15 Q. In Beaumont?
- 16 A. Beaufort.
- 17 Q. Beaufort. I apologize.
- 18 A. You all right.
- 19 Q. But this whole time you're staying in contact with Mr. Lowe,
- 20 correct?
- 21 A. He wouldn't even answer my phone calls.
- 22 Q. But you had text message exchanges with him?
- 23 A. Yeah.
- 24 Q. And you were asked on direct examination if you had any
- 25 phone calls from Joe. Do you remember being asked that question

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ALAN GLOVER - Cross by Mr. Wackenheim

1 yesterday?

2 A. Yeah.

3 Q. And I think your answer, and if I'm -- was he didn't -- no,
4 I had no -- well, you said -- let me back up -- that Joe didn't
5 need to call me because he would find out on the news. Is that
6 more or less what you said?

7 A. Probably.

8 Q. But just to be clear, did you and Mr. Passage have any phone
9 calls while you were in South Carolina?

10 A. I think we did. I'm pretty sure we did, because that's what
11 it states, that I did, so yes.

12 Q. When were those phone calls?

13 A. I don't know. I'm sure I was loaded. I don't really
14 remember, to be honest with you.

15 Q. And was it in February of 2018 you learned Mr. Passage
16 wanted you back on the park?

17 A. Yeah. I wasn't sure exactly what was going on because I --
18 I didn't know what anybody knew. I just knew something wasn't
19 right and I couldn't get heads or tails out of nobody.

20 Q. Well, around that time were you sending him messages about
21 him being in a car accident?

22 A. Oh, yeah. I heard he got in a bad accident, broke his hip
23 and whatnot.

24 Q. And do you remember telling him how you missed being at the
25 park?

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ALAN GLOVER - Cross by Mr. Wackenheim

1 A. Yeah, I'm sure I did. That park means a great deal to a lot
2 of people.

3 Q. Do you remember telling him how soon you could get back to
4 the park?

5 A. Maybe. Really had no intentions of coming back until I knew
6 somebody was going to be there to save me.

7 MR. WACKENHEIM: Your Honor, I'm going to move for
8 admission of Defendant's Exhibit 21. Pages 3 and 4 are the
9 relevant text messages back and forth between Mr. Glover and
10 Mr. Passage. The jury's already seen excerpts of Mr. Passage's
11 responses.

12 THE COURT: So are you singling out Pages 3 and 4 for
13 admission or are you wanting to admit the entirety of Defendant's
14 21?

15 MR. WACKENHEIM: Well, I think we'll get to Page 2. I
16 don't know if we're there yet. I just -- I don't think there
17 is -- certainly Pages 3 and 4 at this point, we're moving for
18 their admission. We can wait on Page 2.

19 THE COURT: Government?

20 MS. MAXFIELD-GREEN: No objection to Pages 3 and 4.

21 MS. DAVIS: I think we should call it 21-A.

22 THE COURT: Counsel, do you have any objection? Can we
23 call that Defendant's 21-A to include Pages 3 and 4, just so
24 there's no confusion in the record?

25 MR. WACKENHEIM: No, Your Honor.

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ALAN GLOVER - Cross by Mr. Wackenheim

1 THE COURT: Counsel for the Government, Ms. Green, are
2 you fine with that?

3 MS. MAXFIELD-GREEN: That's fine, Your Honor.

4 THE COURT: Okay. 21-A will be admitted. It's Pages 3
5 and 4 of Defendant's 21.

6 Q. (By Mr. Wackenheim) I think yesterday you said you had not
7 seen these types of reports, but we already know that these have
8 come from one of the phones you had in Florida. I'm going to
9 direct your attention to --

10 A. Never had a phone in Florida.

11 Q. Excuse me. South Carolina.

12 Number 361, you have a text message sent February 26th, "I
13 heard you got in a really bad car accident. How are you doing,
14 sir. I miss the park." Do you remember that?

15 A. I'm looking at it.

16 Q. Again, "Hey, I would -- hey, would you tell everyone at the
17 meeting this morning I said hello, I'll see them soon, I love
18 them all."

19 A. Yep.

20 Q. What meeting are you talking about?

21 A. Morning meetings, afternoon meetings.

22 Q. And then from Mr. Passage, "Not bad, still have to fix my
23 hip." What's he talking about there?

24 A. Fixing his hip.

25 Q. "Sure will," from Mr. Passage. And then Mr. Passage asks,

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ALAN GLOVER - Cross by Mr. Wackenheim

1 "How soon can you get back?" Do you remember him asking you
2 that?

3 A. I'm looking at it.

4 Q. And then, "My check comes in on the 1st, I see my doctor on
5 the 12th, the day after, would that be okay, sir."

6 What check are you referring to?

7 A. Say that again, please, sir.

8 Q. When Mr. Passage asks you how soon can you get back, you
9 respond, my check comes in on the 1st. What check are you
10 talking about?

11 A. Social Security check.

12 Q. Following text, "Could you please have someone pick me up?"

13 A. Yeah, I'm sitting there bullshitting him. I had nothing
14 better to do.

15 Q. "How is everything going on at the park, sir?" So you are
16 still asking about how the park is going at that point?

17 A. Yeah.

18 Q. "Not bad." And then, Mr. Passage, we saw this earlier, says
19 to you, "Miss you." And in response --

20 A. I must have been drunk.

21 Q. You say, "Yeah, believe it or not, I miss you too. That's
22 F'g crazy." He says LOL and you tell him, "I never dreamed I
23 would say that." Why did you never dream you would say that to
24 Mr. Passage?

25 A. Because I just -- I must have been drunk, like I says.

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ALAN GLOVER - Cross by Mr. Wackenheim

1 Q. And you sent a message that you do miss the zoo. Do you
2 remember that message?

3 A. I have seen it. What time was this in the evening,
4 actually? That would help me out a lot.

5 Q. Well, we have heard testimony that this time right here is
6 six hours in the future.

7 A. Okay. Help me with that.

8 Q. So that would have been in the morning.

9 A. Wait. What time in the morning, 3:00, 2:00? Because I know
10 when I start drinking and I know when I quit.

11 Q. So it's possible you're drinking while you're sending these
12 messages to him?

13 A. I'm pretty sure I was.

14 Q. Probably likely?

15 And you have a series of more exchanges, but it was not
16 until this exchange that we heard earlier, "Have you got ant
17 (sic) of the cash left?" And that's from Mr. Passage. Do you
18 recall that text message?

19 A. Yeah.

20 Q. And you say, "Not really, sir, but I can cash, Social
21 Security still owes me \$3,760."

22 A. Yep.

23 Q. And what does Mr. Passage say to you? "All good." Because
24 he wanted you back at the park at that point, right?

25 A. Yeah.

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ALAN GLOVER - Cross by Mr. Wackenheim

1 Q. He wasn't worried about any of this cash, right?

2 A. I didn't realize I made a mistake on stealing that money.

3 Q. Now, you corrected me very quickly that you didn't take a
4 phone to Florida, right?

5 A. Right.

6 Q. Why?

7 A. Didn't want -- I didn't need it.

8 Q. Well, isn't it true that you have been -- go ahead. I'm
9 sorry.

10 A. I wanted to get away and go tell that lady that shit, but I
11 don't know. I just couldn't do it. I should have.

12 Q. Isn't it true that you did not, in fact, go to Florida?

13 A. Yes, I did go to Florida.

14 Q. You did go to Florida?

15 A. I just don't know if I got to the Tampa area.

16 Q. Isn't it true you had conversations with Mr. Lowe about
17 whether or not you should tell authorities that you went to
18 Florida?

19 A. Yeah. He told me to tell them the truth. That's why I came
20 back.

21 Q. So we have heard you being recorded by Mr. Garretson. Have
22 you ever been recorded by Mr. Lowe?

23 A. I -- I don't know. I'm not 100 percent sure about that, but
24 the Government found out information that I know I didn't tell
25 them, so somebody had to tell them.

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ALAN GLOVER - Cross by Mr. Wackenheim

- 1 Q. So you have reason to believe that Mr. Lowe was recording
2 your conversations?
- 3 A. Yeah.
- 4 Q. Do you remember talking to him on June 21st, 2018?
- 5 A. No, I do not.
- 6 Q. And just to maybe put a landmark, that would have been about
7 two weeks before you came back to the park?
- 8 A. This last time?
- 9 Q. Correct.
- 10 A. Probably.
- 11 Q. Does that help you remember that conversation?
- 12 A. No.
- 13 Q. Okay. Do you recall telling him, in the context of what's
14 going on, "I can say I went down there then." Do you remember
15 telling Mr. Lowe that?
- 16 A. No, I don't.
- 17 Q. So if that's on a recording and it shows you saying that,
18 how would you explain that?
- 19 A. Say I went down there for a day.
- 20 Q. No. How would you explain telling Mr. Lowe you'll say that
21 you went down there if you want me to?
- 22 A. No, I never said nothing like that.
- 23 Q. What did you say?
- 24 A. What you just said, but it wasn't put like that.
- 25 Q. Because you're --

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ALAN GLOVER - Cross by Mr. Wackenheim

1 A. I said it because I went down there for a day and a half.
2 So that would be the damn truth, so you're getting it. How I may
3 have said it, that is the truth.

4 MR. WACKENHEIM: Your Honor, can we approach?

5 THE COURT: You may.

6 (The following bench conference was held outside the hearing
7 of the jury.).

8 MR. WACKENHEIM: Your Honor, I elected to do this at
9 the bench because this might be a long argument here, but
10 Defendant's Exhibit 20 -- and I'm referring to the first --
11 what's marked -- yeah, the first three pages. The fourth page
12 I'll have to -- the first three pages.

13 THE COURT: The first three pages including the
14 extraction report summary?

15 MR. WACKENHEIM: Correct, Your Honor. Correct.

16 These first three pages document a conversation between
17 Mr. Lowe and Mr. Glover shortly after Mr. Lowe begins cooperating
18 with Agent Bryant. It is a sequence of -- of messages in which
19 Mr. Lowe and Mr. Glover discuss what to do, what to say to
20 authorities, and what Mr. Lowe has already told authorities so
21 that Mr. Glover is aware of what Mr. Lowe has already told. And
22 in, what we would argue, in a manner to be consistent with what
23 Mr. Lowe has already said.

24 So we're going to move for these admissions. I understand
25 that there may be a hearsay objection.

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ALAN GLOVER - Cross by Mr. Wackenheim

1 MS. MAXFIELD-GREEN: Yes, Your Honor. That's straight
2 hearsay. They're out-of-court statements made almost -- most of
3 the text messages are from Jeff Lowe. There's only a few that
4 are actually to Mr. Glover -- I'm sorry -- to Jeff Lowe from
5 Mr. Glover. So all -- the majority of the statements are hearsay
6 on behalf of Jeff Lowe.

7 The statements by Mr. Glover are also still hearsay. These
8 are all out-of-court statements. They're trying to offer them
9 for the truth of the matter asserted. He can cross-examine
10 Mr. Glover about whether Mr. Lowe told him what to tell
11 authorities and whether he suggested facts to him or anything
12 like that. We don't -- he can do that without introducing
13 hearsay.

14 MR. WACKENHEIM: Well, we don't -- step one, this isn't
15 hearsay. Is it a statement -- is it made by an out-of-court
16 declarant? Yes. But is it offered for the truth of the matter?
17 Are we offering it for the truth of what Mr. Lowe said? And we
18 are not. We are offering it to show why Mr. Glover is testifying
19 the way he did, and, arguably, to impeach him when he denies that
20 Mr. Lowe told him these things.

21 So step one, I don't even think we get to hearsay. We think
22 it's not being offered for the truth of the matter.

23 THE COURT: Well, Mr. Glover hasn't denied that he said
24 these things, has he -- or that Mr. Lowe said these things, did
25 he?

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ALAN GLOVER - Cross by Mr. Wackenheim

1 MR. WACKENHEIM: He has been -- as far as I remember,
2 correct me if I'm wrong -- but as I recall, he's testified
3 Mr. Lowe told me to say the truth, the truth, but there are
4 specific details in these text messages from Mr. Lowe to
5 Mr. Glover. For example, looking at No. 76 on the first page,
6 Mr. Lowe tells -- "Alan told them that you probably saw a chance
7 to scam Joe out of some cash and took the chance," moving up,
8 "because Joe treated you like shit." Moving up, "There you go,
9 proof I didn't know."

10 And, Your Honor, that's the story that Mr. Glover has had.
11 That's the story that we submit was given to him by Mr. Lowe.

12 THE COURT: I mean, I think you can cross-examine
13 Mr. Glover about that without introducing the statement.

14 MS. MAXFIELD-GREEN: And, Your Honor, Jeff Lowe was on
15 the defense witness list. They have made no attempt to subpoena
16 him. He is available to be a witness in this trial, if he would
17 be subpoenaed. They have made no attempt to do that and they
18 can't attempt to get his testimony about Jeff Lowe in without
19 calling him.

20 MR. WACKENHEIM: Well, I would just note that he's also
21 been a Government agent since as early as June 2018 and the
22 Government has elected not to call him as well. And there has
23 been a number of hearsay statements that have come in when the
24 Government's offered them. We're here simply -- we believe this
25 is material to our defense, could meet the residual exception as

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ALAN GLOVER - Cross by Mr. Wackenheim

1 well under the hearsay rules of the Federal Evidence Code. And
2 arguably, it denies us our right to confrontation, because this
3 is material to our defense, to impeach.

4 MS. MAXFIELD-GREEN: Your Honor, if the defense wants
5 to confront Jeff Lowe, they need to call Jeff Lowe as a witness.

6 THE COURT: The fact of the matter is we have -- I have
7 allowed a fair amount of hearsay on both sides because of
8 weighing the context for a number of things. And we have lapsed
9 into that -- a lot of attempts to -- I'm not necessarily saying
10 improperly -- but characterize some statements as not being
11 hearsay because they're not offered to prove the truth, but they
12 are bordering on getting far afield. And I do find that to
13 introduce this entire text exchange between Mr. Glover and a
14 witness who is available, Mr. Lowe, I do think -- do think is
15 hearsay.

16 You can certainly call Mr. Lowe, should you choose. You can
17 certainly cross-examine Mr. Glover about this. But the objection
18 to introducing the entire content of this text exchange with
19 another person who's not testifying is sustained.

20 MR. WACKENHEIM: Okay. And just for clarification,
21 when I am cross-examining, I'm concerned about the detail in
22 which I'm able to ask him about his conversation with Mr. Lowe
23 because these messages give me specific questions, but those
24 specific questions might themselves draw an objection for
25 introducing the out-of-court statement.

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ALAN GLOVER - Cross by Mr. Wackenheim

1 THE COURT: I'm sorry. I didn't mean to interrupt.

2 I think the point is, is that with cross-examination you
3 have got some leeway. I think you can simply make your point and
4 confront him about that without going into the statement. I
5 think you can ask him about the theory that you're suggesting in
6 terms of -- and you can ask him about it without going into
7 quoting the -- the statement of Mr. Lowe. We --

8 MS. MAXFIELD-GREEN: In fact, we -- the Government
9 would object to Mr. Wackenheim simply quoting the text messages
10 and asking if that's what was said.

11 THE COURT: Yeah, I think everybody understands that.

12 MR. WACKENHEIM: I -- I won't even paraphrase. I'll
13 zoom out even further than that. But I just wanted to approach
14 because I knew this would be a lengthy --

15 THE COURT: I appreciate that. Thank you.

16 (The following record was made in open court, in the
17 presence of all parties, counsel, and in the presence and hearing
18 of the jury.)

19 THE COURT: Nobody should have to hear that white noise
20 before noon. We'll work on some elevator music.

21 Q. (By Mr. Wackenheim) Mr. Glover, is it fair to say that in
22 June of 2018 your communications with Mr. Lowe about Mr. Passage
23 increased; you started talking about him a lot more?

24 A. Could have. Can you be more specific?

25 Q. Yes. At that point is it when you learned that Mr. Lowe

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ALAN GLOVER - Cross by Mr. Wackenheim

- 1 believed that Mr. Passage was the subject of an investigation?
- 2 A. When did I know this?
- 3 Q. Well, was this -- these conversations --
- 4 A. After I got back.
- 5 Q. Okay. So you --
- 6 A. I didn't know anything until after I got back. I was still
- 7 lost, and I'm still lost.
- 8 Q. Fair. You came back the day after the Fourth of July?
- 9 A. Yes, sir.
- 10 Q. So is it your testimony that before then you didn't know
- 11 anything about what's going on?
- 12 A. Just, like, little bits. He said he was off the park at one
- 13 time and I thought maybe -- I didn't understand. He left and
- 14 went somewhere. I didn't understand -- I figured he left and
- 15 went somewhere. I didn't know there was a whole big storm
- 16 brewing down there and didn't know anything about it. Didn't
- 17 know anything about the FBI really until I got back here, but I
- 18 knew I had to come back here.
- 19 Q. So you didn't learn from Mr. Lowe that Mr. Lowe was working
- 20 with federal agents?
- 21 A. Before I got back, yes, but that's why I had to come back.
- 22 Q. And in those communications, you and Mr. Lowe are talking
- 23 about what you will say to federal agents?
- 24 A. I'm sure that we -- I'm probably -- yeah. I would think so.
- 25 I mean, I have never done this before. I don't think he has,

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ALAN GLOVER - Cross by Mr. Wackenheim

1 so -- and then having to talk to him after stealing from him
2 also, that was pretty hard.

3 Q. You testified yesterday that you did go to Florida, right?

4 A. Yeah, I went somewhere in Florida.

5 Q. Didn't take a phone with you, right?

6 Now, you're aware that phones have location information on
7 them, right?

8 A. Yeah.

9 Q. So someone, if they had the ability, could figure out where
10 a phone was at any time?

11 A. Oh, yeah.

12 Q. And isn't that why you didn't take a phone to Florida?

13 A. Yeah, pretty much.

14 Q. Or is it because the Florida story is made up?

15 A. No, it is not made up about that story.

16 Q. If you were going to confront Ms. Baskin to explain what was
17 happening, why would you be worried about taking a phone that had
18 location data on it?

19 A. I just wasn't thinking about that. It was just in -- I
20 thought about it; it drove me crazy. I had to tell two people
21 back home what I was here to do, just to get it off my chest. It
22 was bothering me that bad.

23 Q. I mean --

24 A. Nothing made up about this.

25 Q. Isn't it -- isn't it a better story for you to go to

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ALAN GLOVER - Cross by Mr. Wackenheim

- 1 Florida?
- 2 A. No. It's just the truth.
- 3 Q. But we can't verify that because you didn't bring a phone
- 4 with you, correct?
- 5 A. I guess, yes.
- 6 Q. Now, you said that when you went to Florida you wanted to
- 7 contact Ms. Baskin, and was it just walk up to her and tell her
- 8 what was going on?
- 9 A. Yeah, basically. A phone call wouldn't have -- she's done
- 10 seen so much videos of him wanting to kill her and acting,
- 11 pretending like he's shooting her head off, I don't think a
- 12 telephone call was going to make a bit of difference.
- 13 Q. How about a telephone call to law enforcement?
- 14 A. I know. I'm stupid. I wish I'd have never even done this.
- 15 Q. Now, you learned that Mr. Passage was removed from the park,
- 16 right?
- 17 A. Yeah. Right before I got there, actually.
- 18 Q. And that was Mr. Lowe that removed him from the park?
- 19 A. Yes, that's what I understand.
- 20 Q. And you're currently working -- sorry?
- 21 A. Yes, sir.
- 22 Q. And you're currently working at the park?
- 23 A. I'm there, yes, sir.
- 24 Q. And you're being paid by the owner of the park?
- 25 A. I get a Social Security check. He gives me a place to live.

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ALAN GLOVER - Redirect by Ms. Maxfield-Green

1 Q. Okay.

2 A. He helps me out. When I wasn't getting my check for so
3 long, yeah, he helped me out with, you know, giving me money. It
4 has to go back to him.

5 Q. You're in debt to Mr. Lowe?

6 A. Well, a little bit. I had \$3,000 to pay him. I got a
7 thousand left to pay him.

8 Q. But you pay no rent where you live?

9 A. He helps me with everything like that.

10 Q. In exchange for you working there?

11 A. Yeah.

12 MR. WACKENHEIM: May I have a moment, Your Honor?

13 THE WITNESS: He kind of takes care of me like that.

14 MR. WACKENHEIM: No further questions.

15 THE COURT: Thank you.

16 Redirect?

17 MS. MAXFIELD-GREEN: Yes, Your Honor.

18 **REDIRECT EXAMINATION**

19 **BY MS. MAXFIELD-GREEN:**

20 Q. Mr. Glover, so Mr. Wackenheim was asking you about the man
21 that picked up the cat, that -- where the money came from. Do
22 you remember that?

23 A. Yes, ma'am.

24 Q. Okay. And it was a man that picked up the cat, correct?

25 A. Yes.

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ALAN GLOVER - Redirect by Ms. Maxfield-Green

1 Q. And you didn't know if he was going to be the ultimate
2 owner, did you?

3 A. No, I did not.

4 Q. Is it possible that he could have been picking that cat up
5 for somebody else?

6 A. Yes, very well.

7 Q. Okay. Now, on direct you said that when you were around
8 that man that you had about two minutes that you were around him,
9 correct?

10 A. Yeah, roughly. Just enough to hand him the cat, or get
11 placed in the back of the car, and looking at the cat, and
12 then --

13 Q. And at the time that you were around this man, you were
14 holding a liger cub, right?

15 A. Right.

16 Q. About how much did that liger cub weigh, do you think?

17 A. 35, 40 pounds maybe.

18 Q. 35 or 40 pounds. So pretty big, right?

19 A. They're solid, really thick animals.

20 Q. Are they kind of squirmy?

21 A. Can be.

22 Q. Were you trying to be careful because could that animal
23 scratch or bite you?

24 A. It could.

25 Q. So is it fair to say that when you were around this man for

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ALAN GLOVER - Redirect by Ms. Maxfield-Green

1 about two minutes you were preoccupied with the cat?

2 A. Right.

3 Q. And you remember -- you remember when you testified in grand
4 jury?

5 A. Yes, ma'am.

6 Q. And that the -- that it was me, I showed you one photo of a
7 man, correct?

8 A. Right.

9 Q. And you said, yeah, that's the guy. Do you remember that?

10 A. Yes, ma'am.

11 Q. Okay. Now, did I -- did I show you just one photo, correct?

12 A. Right.

13 Q. I didn't show you, like, ten photos, did I?

14 A. No, ma'am.

15 Q. And ask you to pick out the person you remember out of a
16 photo lineup of ten people?

17 A. Right, right.

18 MS. MAXFIELD-GREEN: Let's see. Can I see
19 Government's -- no. I'm sorry. Defendant's 20.

20 And I'm sorry. I'm looking at Defendant's 21-A.

21 Q. (By Ms. Maxfield-Green) Mr. Glover, this is -- has already
22 been established that this is a text message exchange between you
23 and Mr. Passage. And on February 26th of 2018, Mr. Passage texts
24 you, "Hey, you got ant of the cash left?" And I believe it
25 appears that that means "any." So he was texting you, hey, you

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ALAN GLOVER - Recross by Mr. Wackenheim

1 got any of the cash left. And this was in February of 2018.

2 What cash was he talking about?

3 A. Money that I was sent down there with to kill Karen (sic)
4 Baskin, because I haven't done it yet.

5 MS. MAXFIELD-GREEN: That's all for the Government,
6 Your Honor.

7 THE COURT: Thank you.

8 Anything further, Mr. Wackenheim?

9 MR. WACKENHEIM: Just a couple.

10 **RECROSS EXAMINATION**

11 **BY MR. WACKENHEIM:**

12 Q. So at grand jury Ms. Green showed you a photograph of that
13 man and you identified him, correct?

14 A. Correct.

15 Q. Earlier Agent Bryant showed you that photograph and you
16 identified him, correct?

17 A. Yes. It was the same person.

18 Q. And even before that, Mr. Lowe showed you that photograph
19 and you identified him, correct?

20 A. I believe so.

21 Q. How old was that cub that you were holding?

22 A. I'm not sure. I really don't know.

23 MR. WACKENHEIM: Thank you.

24 THE COURT: Thank you, Mr. Glover. You may step down.
25 Government's next witness.

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LAUREN LOWE - Direct by Mr. Brown

1 MR. BROWN: We'd call Lauren Lowe.

2 (WITNESS SWORN.)

3 LAUREN LOWE,
4 DIRECT EXAMINATION

5 BY MR. BROWN:

6 Q. Good morning, ma'am.

7 A. Hi.

8 Q. Please state your name.

9 A. Lauren Franklin Lowe.

10 Q. Where do you currently live, Ms. Lowe?

11 A. Wynnewood, Oklahoma.

12 Q. Are you familiar with a person named Joseph
13 Maldonado-Passage?

14 A. I am.

15 Q. Do you see Mr. Passage in the courtroom?

16 A. I do.

17 Q. Can you point at him and describe what he is wearing,
18 please?

19 A. He is wearing a navy blue suit.

20 Q. Okay. When did you first meet Mr. Passage?

21 A. Oh, it was probably late October, early November of 2015.

22 Q. Okay. And where did you meet Mr. Passage?

23 A. At the Wynnewood zoo.

24 Q. Okay. And at some point in time after October of 2015, did
25 you end up moving to the zoo?

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LAUREN LOWE - Direct by Mr. Brown

- 1 A. Yes.
- 2 Q. Okay. Did you move with anyone else?
- 3 A. Yes, my husband and I.
- 4 Q. Okay. And would that be Jeff Lowe?
- 5 A. Yes, it is.
- 6 Q. Were you and Mr. Lowe married at that time?
- 7 A. We were not, no.
- 8 Q. When did you and Mr. Lowe get married?
- 9 A. July 4th of 2017.
- 10 Q. All right. And when you and Mr. Lowe moved to the Wynnewood
11 zoo, did you bring any big cats with you?
- 12 A. Not at first. They were left at Serenity Springs in
13 Colorado. We eventually went back to get them in December.
- 14 Q. Okay. Now, at some point in time in 2016 did your
15 husband -- were you guys engaged at the time?
- 16 A. We were, yes.
- 17 Q. Okay. At some point in time in 2016, did Mr. Lowe take over
18 ownership of the zoo?
- 19 A. Yes, in February of 2016.
- 20 Q. All right. And at that time do you know whether or not
21 Mr. Passage dissolved his zoo?
- 22 A. Yes. He did dissolve his zoo before we made a new
23 corporation.
- 24 Q. Okay. And so did Mr. Lowe form the new entity in his name
25 or was it in both of your names?

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LAUREN LOWE - Direct by Mr. Brown

- 1 A. It was in his name.
- 2 Q. And what was the name of the new entity?
- 3 A. Greater Wynnewood Exotic Animal Park.
- 4 Q. All right. And did either you or Mr. Lowe pay Mr. Passage
- 5 any type of consideration or any money or anything else for
- 6 taking over the zoo?
- 7 A. We did. We paid his lawyer fees, we paid food for the
- 8 animals, also the electric bills and water bills.
- 9 Q. Approximately how much?
- 10 A. Anywhere between maybe 50 to \$70,000.
- 11 Q. Okay. And the bills you just mentioned, were they -- were
- 12 those bills in arrears, meaning was Mr. Passage behind on some
- 13 bills?
- 14 A. He was behind on quite a few, yes.
- 15 Q. Okay. Now, after you -- or after Mr. Lowe took over
- 16 ownership of the zoo, did Mr. Passage remain at the zoo?
- 17 A. Yes, he did.
- 18 Q. Did his animals remain at the zoo?
- 19 A. Yes.
- 20 Q. All right. Did he essentially run the day-to-day operations
- 21 of the zoo?
- 22 A. Yes, he did.
- 23 Q. And at that point in time was he a salaried employee of
- 24 Mr. Lowe's new entity?
- 25 A. He was getting paid \$150 a week.

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LAUREN LOWE - Direct by Mr. Brown

- 1 Q. Okay.
- 2 A. With all his expenses paid.
- 3 Q. Now, when Mr. Lowe bought the zoo or took over ownership of
4 the zoo, did he have a USDA exhibitor's license?
- 5 A. Yes.
- 6 Q. Did Mr. Passage have one at the time?
- 7 A. Yes.
- 8 Q. Okay. Were there any other USDA licenses for animals at the
9 zoo?
- 10 A. Yes. There was Beth Corley and Trey.
- 11 Q. And with respect to Trey, is that related to the traveling
12 circus?
- 13 A. Yes, uh-huh.
- 14 Q. All right. And Beth Corley, did -- was she present at the
15 park?
- 16 A. I'd never met her.
- 17 Q. Did Mr. Passage ever say anything to you about any animals
18 that were under Ms. Corley's USDA license?
- 19 A. At first he just said that she owned a few of the animals,
20 which, you know, believed him right at the time, didn't realize
21 what he was doing behind the scenes with her license until later
22 on.
- 23 Q. So at some point in time did she make -- did he make any
24 statements to you about animals under her license?
- 25 A. Just that she owned a couple of her own animals.

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LAUREN LOWE - Direct by Mr. Brown

1 Q. Okay. Now, after taking over ownership of the zoo, at some
2 point in time did you and Mr. Lowe move out of state?

3 A. Yes, we moved to Las Vegas.

4 Q. Approximately when?

5 A. May of 2017, or early June.

6 Q. Okay. And when you-all moved to Las Vegas, did Mr. Passage
7 essentially remain in charge at the zoo?

8 A. Yes. We let him stay in control of the day-to-day
9 operations.

10 Q. And while you were living in Las Vegas, would you ever
11 receive mail or any parcels from folks at the zoo?

12 A. Yes. I would actually have to call the zoo and -- to tell
13 them to send me my mail. So it was just my daily, like,
14 magazines or bills or things I had to do.

15 Q. Okay. And at any point in time in November of 2017 do you
16 recall receiving anything from the zoo?

17 A. Yeah. Actually, I believe in November I received either two
18 or three packages. Two of them just happened to be my regular
19 mail that comes in, and the other one was a yellow envelope.

20 Q. Okay. And was it an envelope that had been mailed via the
21 U.S. Postal Service or FedEx? Do you remember?

22 A. Postal Service.

23 Q. Okay. And do you remember when you received that envelope?

24 A. It was after Thanksgiving.

25 Q. Okay. And did you -- do you know who the addressee was?

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LAUREN LOWE - Direct by Mr. Brown

- 1 Was there an addressee on the envelope?
- 2 A. I think it was to Jeff Lowe.
- 3 Q. What about the return address?
- 4 A. It was to the zoo.
- 5 Q. Okay. Now, what was your specific street address in Las
- 6 Vegas at the time?
- 7 A. 6645 Natalia Court.
- 8 Q. All right. Did you end up opening that envelope?
- 9 A. Yeah. I open up a lot of mail.
- 10 Q. Okay. And do you recall what was inside the envelope?
- 11 A. Yeah. It looked like a -- a throwaway phone. Like, we
- 12 thought it was, like, one of the employees'. It wasn't anything
- 13 unusual for us to receive electronics from employees for us to
- 14 work on them to have them fixed.
- 15 Q. Okay. So do you or Mr. Lowe have some type of technology
- 16 background?
- 17 A. Yes, my husband does.
- 18 Q. All right. Was anything else inside the envelope?
- 19 A. A charger.
- 20 Q. All right. Now, when you and Mr. Lowe were living out of
- 21 state, you testified that Mr. Passage continued running the daily
- 22 operations?
- 23 A. Uh-huh.
- 24 Q. All right. Did the zoo have any type of operating bank
- 25 account with Pauls Valley National Bank?

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LAUREN LOWE - Direct by Mr. Brown

- 1 A. Yes. We had three accounts.
- 2 Q. And who was the signatory on those accounts?
- 3 A. It was my husband at first, only my husband.
- 4 Q. And over time did that change?
- 5 A. Yeah. I ended up being one of the signatures.
- 6 Q. Okay. Did Mr. Passage have authorization to write checks
- 7 that were drawn on those accounts for, we'll say park overhead,
- 8 you know, for bills, salaries and the like?
- 9 A. Yes. We left a stamp there in order for him to use it, and
- 10 the stamp was only to be used for payroll and for bills to be
- 11 paid directly for the zoo and animals.
- 12 Q. Okay. Any other employee at Mr. Lowe's zoo allowed to use
- 13 that stamp other than Mr. Passage?
- 14 A. No.
- 15 Q. Can you look at that book in front of you, Government's
- 16 Exhibit 147? It's the black book.
- 17 A. This one?
- 18 Q. Yes, ma'am.
- 19 A. Okay. And go where?
- 20 Q. 147. It might be in that smaller one.
- 21 A. Okay. This is quite a bit. 147. Yes.
- 22 Q. Do you recognize that?
- 23 A. Recognize the check or the signature?
- 24 Q. The overall -- what's reflected in 147?
- 25 A. Yes, uh-huh.

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LAUREN LOWE - Direct by Mr. Brown

1 Q. And have you seen that before?

2 A. I have, yes.

3 Q. Is that an accurate copy of it?

4 A. That is, yes.

5 Q. Okay.

6 MR. BROWN: We'd move for admission of Government's
7 147.

8 THE COURT: Any objection?

9 MR. EARLEY: No objection.

10 THE COURT: Government's 147 be admitted.

11 Q. (By Mr. Brown) All right. And was this one of your -- or
12 one of the operating accounts at Pauls Valley National Bank for
13 Mr. Lowe's park?

14 A. Yes, they are.

15 Q. And what's the date of that check?

16 A. It is November 25th of 2017.

17 Q. And the payee?

18 A. The paid, \$212 to United States Postal Service.

19 Q. And let's talk about the signature. Do you recognize that
20 signature?

21 A. Yes. That was the stamp.

22 Q. Okay. And at the time that this check was written to the
23 United States Postal Service, November 25th, 2017, just remind
24 us, where were you and Mr. Lowe living?

25 A. In Las Vegas.

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LAUREN LOWE - Cross by Mr. Earley

1 Q. Okay. Now, when did you and Mr. Lowe ultimately leave Las
2 Vegas and return to the zoo?

3 A. I want to say it was in April.

4 Q. Okay. After -- and when you returned to the zoo in April
5 of 2018, did you still have that phone that had been sent to you?

6 A. Yes, we did, uh-huh.

7 Q. Okay. And what, if anything, came of that phone?

8 A. Well, we just kind of threw it in a box and just completely
9 forgot about it.

10 Q. Okay. At any point in time did you provide it to law
11 enforcement?

12 A. Yes, I did.

13 Q. Do you remember who you provided it to?

14 A. To Matt Bryant.

15 Q. Okay. With Fish & Wildlife?

16 A. Yes.

17 MR. BROWN: Pass the witness, Your Honor.

18 THE COURT: Cross-examination?

19 **CROSS-EXAMINATION**

20 **BY MR. EARLEY:**

21 Q. I believe I heard your testimony that there were some
22 animals that you and Mr. Lowe had in Colorado; is that correct?

23 A. Yes.

24 Q. Okay. And so did your husband have some experience with
25 exotic animals?

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LAUREN LOWE - Cross by Mr. Earley

- 1 A. Yes. He has quite a bit of experience.
- 2 Q. How many years would you say he's got?
- 3 A. Practically since he was born.
- 4 Q. How old is he?
- 5 A. He is 52.
- 6 Q. Okay. So do you have any experience with exotic animals?
- 7 A. I have had experience with animals before, but not to the
8 exotic animal world until a little over about five years ago.
- 9 Q. Okay. So when you and your -- your -- it wasn't your
10 husband at the time -- but when you and Mr. Lowe decided to come
11 down to the park, was it your intention to take over operation of
12 the park?
- 13 A. Not right away. At the time we were trying to find a place
14 for our animals to live.
- 15 Q. All right. Did they eventually come to the park?
- 16 A. Yes, they did.
- 17 Q. And do they have to be registered under someone's license?
- 18 A. Well, when we had them in Serenity Springs, of course, they
19 were transferred into that corporation's name. And then when we
20 moved to Wynnewood, they apparently were moved into Beth Corley's
21 license that we were not aware of. They should have stayed in
22 ours.
- 23 Q. So you did have a license?
- 24 A. Yes, we had a license.
- 25 Q. Okay. Well, who was doing the paperwork on that?

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LAUREN LOWE - Cross by Mr. Earley

1 A. Joe.

2 Q. All right. So you didn't see -- you didn't take the time to
3 look to see if the animals that you had up in Colorado had been
4 put under Jeff Lowe's license?

5 A. I don't remember seeing that piece of paper. I just know
6 that we had to have them transferred from one facility to the
7 other.

8 Q. They needed to be under some license, correct?

9 A. Correct, yes.

10 Q. And Ms. Corley, as you testified, had her own animals at the
11 park, correct?

12 A. From what I was told, yes.

13 Q. All right. And do you have a job outside of working with
14 your husband at the park?

15 A. No.

16 Q. And so it would be fair to say that you probably work
17 alongside of him. Would that be correct?

18 A. I do.

19 Q. All right. And that would be on a daily basis, I assume?

20 A. Yes.

21 Q. Do you know Alan Glover?

22 A. I do.

23 Q. And how do you know him?

24 A. Well, I know him because he does work at our facility, but
25 my husband had him employed for him down in Beaufort, South

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LAUREN LOWE - Cross by Mr. Earley

1 Carolina.

2 Q. But your husband and Mr. Glover go back quite a ways?

3 A. They do, yes.

4 Q. And you consider your husband and Alan Glover to have a
5 pretty close relationship?

6 A. Yes.

7 Q. And do you have a close relationship with Mr. Glover?

8 A. Yes.

9 Q. Okay. And is the relationship such that Mr. Glover keeps in
10 contact with your husband and you when you're away from the zoo?

11 A. Well, when we were in Las Vegas it wasn't as much, no.

12 Q. Okay. Well, so, if you can remember, how often, at least
13 did you hear from him?

14 A. As in what time frame?

15 Q. When you were away from the zoo, in Vegas.

16 A. In Vegas? He would call a lot -- when I say a lot, maybe
17 once a week -- about Joe, saying how much he hated Joe and that
18 he was ready to leave.

19 Q. Okay. So you were aware of those conversations?

20 A. Yes.

21 Q. All right. Now, you and Mr. Lowe purchased -- or I guess he
22 did anyway -- purchased this place in February of 2016; is that
23 right?

24 A. Yes.

25 Q. And so was the name or -- the name of the place and the

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LAUREN LOWE - Cross by Mr. Earley

1 paperwork changed before you actually took over or right at that
2 same time?

3 A. Joe got rid of his entity first. We didn't make ours until
4 afterwards.

5 Q. All right. And were you aware of the legal issues that
6 Mr. Passage had when you took over the zoo?

7 A. That was between him and Carole Baskin. That had nothing to
8 do with us, so yes.

9 Q. All right. So I take it, then, when you-all decided you
10 would take over the zoo, you thought, we're going to just take
11 this place over and Mr. Passage's legal problems will just be his
12 legal problems and they won't have anything to do with us,
13 correct?

14 A. Shouldn't have been, but that's correct.

15 Q. And that's what you thought at the time?

16 A. Uh-huh.

17 Q. But that's not what happened?

18 THE COURT: Ma'am, you need to be sure to answer yes or
19 no. The court reporter can't take down uh-huh or huh-uh.

20 THE WITNESS: I'm sorry.

21 Q. (By Mr. Earley) You thought that at the time, but that's
22 not how it ended up, correct?

23 A. Correct.

24 Q. And so essentially what happened was you bought into all of
25 these legal problems that Mr. Passage had, correct?

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LAUREN LOWE - Cross by Mr. Earley

1 A. Correct.

2 Q. And cost a -- cost a lot of attorney --

3 A. A pretty penny? Yes.

4 Q. Continuously, correct?

5 A. Uh-huh.

6 Q. All right. Did you feel that Mr. Passage's legal problems
7 were -- were a liability for the park?

8 A. At the time, no, because they were between him and Carole
9 Baskin of Big Cat Rescue. We -- that was more between -- that's
10 more like something I can't exactly talk about, because I wasn't
11 so involved with the legal problems between him and his zoo.

12 MR. BROWN: Judge, I'm going to object. This is well
13 beyond the scope of direct. And, frankly, I don't see how it's
14 relevant to what she testified to on direct.

15 THE COURT: Parties approach.

16 (The following bench conference was held outside the hearing
17 of the jury.).

18 THE COURT: Mr. Earley, you're getting a little far
19 afield. Where are you going with it?

20 MR. EARLEY: I'm just trying to establish her
21 connection to the park as well as her knowledge about her
22 husband's activities at the park, and in that -- in Las Vegas.
23 They go to the issue of him using a signature stamp to pay park
24 employees and what was authorized for purposes of bills and
25 things like that. Just background information to establish her

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LAUREN LOWE - Cross by Mr. Earley

1 knowledge.

2 THE COURT: And to what relevance?

3 MR. EARLEY: Just establish that Mr. Passage had the
4 authority to pay the bills, to act as the manager of the park and
5 all of that.

6 THE COURT: I think she testified to that. I'll give
7 you a little leeway, but what I don't want is you trying to get
8 in Mr. Lowe's testimony through her. I mean, he can either
9 testify or not, but I'll give you a little more leeway, but --

10 MR. BROWN: And, Judge, just for the record, she just
11 testified that she can't really testify to any of the legal
12 proceedings, she was never a party to it. And I would just, for
13 the record, point out they were married on July 4th of 2017, so
14 we're going to invoke marital privilege, too, once they start
15 passing that as well, so.

16 THE COURT: Well, let's see where we go, but with those
17 caveats.

18 MR. BROWN: Okay.

19 (The following record was made in open court, in the
20 presence of all parties, counsel, and in the presence and hearing
21 of the jury.)

22 Q. (By Mr. Earley) Now, you advised that maybe around May 1st,
23 2017, you and your husband were located in Las Vegas; is that
24 correct?

25 A. It was late May, early June.

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LAUREN LOWE - Cross by Mr. Earley

- 1 Q. All right. And is that where you were basically living?
- 2 A. Yes.
- 3 Q. Did you occasionally come back to the park?
- 4 A. Yes, we did.
- 5 Q. All right. And with respect to your testimony about the
- 6 mail, were packages mailed to you quite often?
- 7 A. Yes.
- 8 Q. And so you stated in November of 2017 you received two or
- 9 three packages; is that right?
- 10 A. Yes.
- 11 Q. And one of these was an envelope, correct?
- 12 A. Yellow envelope, yes.
- 13 Q. How big of an envelope was it?
- 14 A. I guess a 10 by 12, a large, legal-size envelope.
- 15 Q. All right. And there was a phone and a charger in it; is
- 16 that correct?
- 17 A. That is correct.
- 18 Q. Nothing else was in it?
- 19 A. No.
- 20 Q. All right. So a single yellow envelope, 10 by 12, with a
- 21 phone and a charger?
- 22 A. Correct.
- 23 Q. All right. And it was addressed to Jeff; is that right?
- 24 A. Yes.
- 25 Q. Okay. Was -- other than you just getting a phone randomly

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LAUREN LOWE - Cross by Mr. Earley

- 1 in the mail, did you do anything with it?
- 2 A. No, we didn't do anything with it.
- 3 Q. Do you remember what you did with it?
- 4 A. I just left it on the counter and then it got put into a
5 drawer.
- 6 Q. Okay. Who put it in the drawer?
- 7 A. It was either me or my husband.
- 8 Q. Did you -- or if you even know -- did you or your husband
9 ever inquire of the park about why you had that phone?
- 10 A. Yes. We asked Joe what it was for, he said he would tell us
11 later on and not to turn it on.
- 12 Q. So not to turn it on?
- 13 A. Do not turn it on.
- 14 Q. All right. So it went into a drawer and it was never turned
15 on?
- 16 A. It was never turned on.
- 17 Q. Okay. Did you ask your husband about that?
- 18 A. We were both on the same terms about it. We just left it
19 alone.
- 20 Q. Now, with respect to this check that you identified made out
21 to the United States Postal Service, would that be some sort of
22 unauthorized payment by Mr. Passage?
- 23 A. Yes.
- 24 Q. Why would that be?
- 25 A. Because apparently it was when he was doing his running for

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LAUREN LOWE - Cross by Mr. Earley

1 governor and he was taking money from the park and was spending
2 and sending out his own personal stuff without our permission to
3 people.

4 Q. All right. Well, I thought the purpose of this check was to
5 show that something was mailed.

6 A. Yes, but for it to be that much in price, \$212, that's a
7 little high, so --

8 Q. So you assumed that maybe he was buying stamps or something
9 that he shouldn't have been, or something to that effect?

10 A. Oh, he definitely was.

11 Q. Okay. When you were out in Las Vegas with your husband, did
12 he get into any trouble out there?

13 A. Yes.

14 Q. And was it related to --

15 MR. BROWN: Objection, Judge; relevance.

16 THE COURT: Sustained.

17 Q. (By Mr. Earley) You're with your husband every day,
18 correct?

19 A. Yes.

20 Q. And did he have conversations with an individual by the name
21 of James Garretson?

22 A. Yes.

23 Q. How many conversations did he have with him, say last
24 spring, 2018?

25 A. That's a hard thing for me to say, but maybe every other day

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LAUREN LOWE - Cross by Mr. Earley

1 or so.

2 Q. Quite often?

3 A. Needless to say, maybe.

4 Q. All right. And with respect to Mr. Glover, same time frame,
5 did he have quite a few conversations with him at that time?

6 A. I wasn't around. I would not know.

7 Q. But you knew about Mr. Garretson, right?

8 A. Yes.

9 Q. All right. But you don't know about Mr. Glover?

10 A. Their conversations? No.

11 Q. Okay. And with respect to Mr. Passage, did he have
12 conversations with Mr. Passage last spring and early summer?

13 A. Last spring, are we talking about 2017 or 2018?

14 Q. 2018.

15 A. Since last spring. Possibly. I don't know their
16 conversations either.

17 Q. But you specifically remember that there were quite a few
18 with James Garretson?

19 A. Yeah.

20 MR. EARLEY: May I have just a moment?

21 THE COURT: You may.

22 MR. EARLEY: Nothing further.

23 THE COURT: Mr. Brown?

24 MR. BROWN: No further questions, Judge.

25 THE COURT: Thank you. You may step down.

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BRIAN HESS - Direct by Mr. Brown

1 Government's next witness?

2 MR. BROWN: Yes. Postal Inspector Brian Hess.

3 THE COURT: Mr. Brown, do you have a fair amount with
4 this witness?

5 MR. BROWN: No more than ten minutes, I believe.

6 THE COURT: I'm trying to calculate when we'll take our
7 break. So let's go ahead and proceed.

8 (WITNESS SWORN.)

9 MR. BROWN: May I have one moment, Judge?

10 THE COURT: You may.

11 BRIAN HESS,

12 DIRECT EXAMINATION

13 BY MR. BROWN:

14 Q. Sir, please state your name.

15 A. Brian Hess.

16 Q. Where do you currently work?

17 A. The United States Postal Inspection Service.

18 Q. Okay. And what's your title?

19 A. Postal inspector or inspector.

20 Q. And is it a fair characterization that your agency is kind
21 of the -- the law enforcement arm of the United States Postal
22 Service?

23 A. Correct.

24 Q. Okay. How long have you been working for the Postal
25 Service?

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BRIAN HESS - Direct by Mr. Brown

1 A. Since January of 2013.

2 Q. All right. And are you familiar with the recordkeeping
3 practices of the Postal Service?

4 A. Yes.

5 Q. And do you regularly use and access postal records in
6 furtherance of your duties as an inspector?

7 A. Yes.

8 Q. Were you asked to search for certain postal records in this
9 case?

10 A. Yes, I was.

11 Q. Okay. And were you provided parameters to narrow down your
12 search?

13 A. Yes.

14 Q. What were those parameters?

15 A. I was asked to look for records for parcels sent from
16 Wynnewood, Oklahoma, to Las Vegas, Nevada, between the time frame
17 of November 2017 to January 2018. Then specifically revised that
18 to look for parcels destined to one of two specific addresses in
19 Las Vegas.

20 Q. And did you conduct that search?

21 A. Yes, I did.

22 Q. Did your search yield any results?

23 A. Yes, it did.

24 Q. Can you take a look at Exhibit 33 in the Government's book,
25 please? The black one. I'm sorry, Inspector Hess.

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BRIAN HESS - Direct by Mr. Brown

- 1 A. Okay.
- 2 Q. The thick black one. There you go.
- 3 Okay. Do you recognize it?
- 4 A. Yes, I do.
- 5 Q. Is that a record of the United States Postal Service?
- 6 A. Yes, it is.
- 7 Q. Okay. And was that record made by a person with knowledge
- 8 of or made from information transmitted by a person with
- 9 knowledge of the acts and events appearing on it?
- 10 A. Yes.
- 11 Q. Was the record made at or near the time of the acts or
- 12 events appearing on it?
- 13 A. Yes.
- 14 Q. Okay. And is it the regular practice of the Postal Service
- 15 to make such a record?
- 16 A. Yes, it is.
- 17 Q. Was that record kept in the course of regularly conducted
- 18 business activity?
- 19 A. Yes.
- 20 MR. BROWN: All right. We'd move for admission of
- 21 Government's 33.
- 22 THE COURT: Any objection?
- 23 MR. WACKENHEIM: No, Your Honor.
- 24 THE COURT: Government's 33 will be admitted.
- 25 Q. (By Mr. Brown) Okay. Can you now look at Government --

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BRIAN HESS - Direct by Mr. Brown

1 MR. BROWN: I'm sorry, Jane, not quite yet. We're
2 going to go back.

3 Q. (By Mr. Brown) Can you now look at Government's 34, please?

4 A. Okay.

5 Q. Do you recognize it?

6 A. Yes, I do.

7 Q. Is it a record of the Postal Service?

8 A. Yes, it is.

9 Q. And was that record made by a person with knowledge of or
10 made from information transmitted by a person with knowledge of
11 the acts and events appearing on it?

12 A. Yes.

13 Q. Was that record made at or near the time of the acts or
14 events appearing on it?

15 A. Yes.

16 Q. And is it the regular practice of the United States Postal
17 Service to make such a record?

18 A. Yes.

19 Q. And was that record kept in the course of regularly
20 conducted business activity?

21 A. Yes, it is.

22 MR. BROWN: We would move for admission of Government's
23 34, please.

24 THE COURT: Any objection?

25 MR. WACKENHEIM: No, Your Honor.

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BRIAN HESS - Direct by Mr. Brown

1 THE COURT: 34 will be admitted.

2 MR. BROWN: Thank you, Judge.

3 Jane, can we see 33 first, please?

4 Q. (By Mr. Brown) Okay. Inspector Hess, can you describe what
5 this record is?

6 A. This is a product tracking and reporting output result that
7 identifies a Priority Mail Express parcel. The tracking number
8 is listed on the top. And then it identifies the specifics of
9 that particular product, as to where it was destined to, how much
10 the postage was, the weight of the parcel, and the network
11 predicted day of delivery or the scheduled delivery day.

12 Q. And does this document indicate the post office from where
13 it was mailed?

14 A. It does on the next page.

15 Q. Okay. And with respect to right here, what's the
16 significance of that?

17 A. That's the listed destination address for this particular
18 parcel.

19 Q. Can you read that street address, please?

20 A. 6645 Natalia Court, Las Vegas, Nevada 89130.

21 Q. Okay. And let's go down to the schedule delivery
22 information.

23 A. It was scheduled for delivery on Monday, November 27th,
24 2017, by 3:00 p.m.

25 Q. Okay. Back out.

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BRIAN HESS - Direct by Mr. Brown

1 And does it indicate on this page the date that the
2 transaction actually occurred at the Wynnewood Post Office?

3 A. On that page, it does not. It should on the second page.

4 MR. BROWN: Okay. Let's focus on the payment section,
5 please, Jane.

6 Q. (By Mr. Brown) The weight and the postage?

7 A. Listed at \$52, 4 pounds 14 ounces.

8 MR. BROWN: All right. Can we go to the second page
9 and can we highlight that?

10 Q. (By Mr. Brown) And does this reflect the actual date that
11 it was physically dropped off at the destination address, the
12 6645 Natalia Court?

13 A. Yes, it does.

14 Q. And what was that date?

15 A. Be November 27th, 2017.

16 Q. Okay.

17 MR. BROWN: And if we can go down to -- Jane, can you
18 blow up the very first entry at the bottom, "accept or pickup."

19 Q. (By Mr. Brown) Now, that "accept or pickup," can you
20 explain what the November 25th date and the time of 10:13
21 indicates?

22 A. That would have been the time it was entered into the Postal
23 Service system identified at Wynnewood, Oklahoma. Identifies a
24 point of sale machine or a retail terminal of where it came
25 across and was entered into the system at.

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BRIAN HESS - Direct by Mr. Brown

- 1 Q. Is that a.m. or p.m.?
- 2 A. That should be central time, so it should be a.m.
- 3 Q. All right.
- 4 MR. BROWN: Can we back out, Jane?
- 5 Q. (By Mr. Brown) Now, let's look at Exhibit 34, please.
- 6 Okay. Let's start with -- and I think there are several pages to
- 7 this record, correct?
- 8 A. Correct.
- 9 Q. And just generally describe what, if any, significance each
- 10 column has.
- 11 A. This is a report that identifies a particular transaction.
- 12 It identifies the employee name that completed the transaction,
- 13 the location of where the transaction occurred, also the date on
- 14 which it occurred.
- 15 There are also numerous columns in there that identify the
- 16 specific components that make up that transaction as far as how
- 17 it was paid and how much the cost was.
- 18 Q. Okay. Can we go to the next page, please. Same questions.
- 19 A. This indicates specifically on November 25th, 2017, that the
- 20 tender type or the payment for this postage was by check and --
- 21 Q. And what -- I'm sorry.
- 22 A. -- still identifying this one particular transaction.
- 23 Q. Okay. And what was the total amount for that particular
- 24 transaction?
- 25 A. It was \$212.

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BRIAN HESS - Direct by Mr. Brown

1 Q. Okay. Next page, please. Same question, please describe.

2 A. Again, further showing that it's the check for \$212, and in
3 this -- the middle column there it lists the check number as
4 3721.

5 Q. Okay. And next page. If you can, the second-to-last
6 column, and as well as the product name, just kind of describe
7 the significance behind each of those entries.

8 A. The product name is identifying the specific components of
9 that transaction. Specifically, on the top line, it's
10 identifying the Priority Mail Express parcel. The second-to-last
11 column, it's showing the item cost amount for each of those
12 particular products.

13 Q. Okay. And if you go to that -- the very first entry, the
14 Priority Mail Express post office to addressee for \$52. Based on
15 your record search, did that entry there match up with the
16 previous exhibit we looked at?

17 A. Yes, it does.

18 Q. Okay. Next page, any significance?

19 A. In the serial number column it's identifying the particular
20 tracking number for that Priority Mail Express parcel.

21 Q. Okay. And next page, any significance?

22 A. Again, more Postal Service transaction records that are on
23 there. It does have the destination ZIP code listed under that
24 column for that particular Priority Mail Express parcel.

25 MR. BROWN: And are there any other pages, Jane? I

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BRIAN HESS - Cross by Mr. Wackenheim

1 think this might be the final page.

2 Q. (By Mr. Brown) Any other significance here, Inspector?

3 A. Again, more of the same of the transaction data for that
4 particular transaction.

5 MR. BROWN: We'll pass the witness, Judge.

6 THE COURT: Cross-examination?

7 CROSS-EXAMINATION

8 By MR. WACKENHEIM:

9 Q. Is it Inspector Hess?

10 A. Correct, sir.

11 Q. Inspector Hess, so you're testifying today to confirm that a
12 package was mailed from Wynnewood to an address in Las Vegas,
13 correct?

14 A. Yes, sir.

15 Q. And that package weighed how much?

16 A. Be 4 pounds, 14 ounces.

17 Q. So almost 5 pounds?

18 A. Yes, sir.

19 Q. And did your investigation, to the extent you had it, did it
20 show who conducted that transaction at the Wynnewood Post Office?

21 A. As far as the employees, sir, or the actual mailer?

22 Q. The mailer.

23 A. No, sir.

24 Q. I think you have the employee. If you look to Government's
25 Exhibit 34, the first page.

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BRIAN HESS - Cross by Mr. Wackenheim

- 1 A. Correct, sir.
- 2 Q. Did you interview that individual?
- 3 A. No, sir.
- 4 Q. So no evidence of who actually mailed that parcel, correct?
- 5 A. Correct.
- 6 Q. Apart from on the Postal Service.
- 7 Does the Postal Service have the ability to scan each parcel
- 8 as it travels?
- 9 A. Yes.
- 10 Q. Was that done in this case?
- 11 A. Yes, it was.
- 12 Q. Do you have the image for that? Or maybe I -- let me back
- 13 up. When I mean scan -- I'm sorry -- does it take an image of
- 14 first class mail and store it in a database?
- 15 A. For that particular parcel, it's possible that that got
- 16 recorded at some point along the way. Priority Mail Express
- 17 parcels typically have a carbon copy label that is retained at
- 18 the post office on the top that would have the address
- 19 information.
- 20 Q. And does the customer fill that part out?
- 21 A. That is correct.
- 22 Q. And we don't have that here?
- 23 A. Correct.
- 24 Q. Your investigation, I think you said you were tasked with
- 25 determining packages sent from Wynnewood from November of 2017 to

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BRIAN HESS - Cross by Mr. Wackenheim

1 January of 2018; is that right?

2 A. Yes, sir.

3 Q. Did you figure out how many packages you were working with?

4 A. It was approximately four within those parameters.

5 Q. And the parameters being to Las Vegas?

6 A. Yes.

7 Q. Those two addresses that you talked about -- well, one that
8 we heard, correct, but there were two addresses?

9 A. Correct.

10 Q. And only four packages from Wynnewood to Las Vegas during
11 that time?

12 A. That I was able to find within those parameters.

13 Q. And if it happened, you would have found it, right?

14 A. If it was listed within the records, I would probably have
15 seen it, yes.

16 Q. Thank you.

17 A. Yes, sir.

18 THE COURT: Anything further, Mr. Brown?

19 MR. BROWN: No, Your Honor.

20 THE COURT: Thank you, Inspector Hess. You may step
21 down.

22 Ladies and gentlemen, we are at the time for our morning
23 break. Again, with the usual admonition to not discuss the case,
24 keep an open mind. It has not been submitted to you for your
25 consideration.

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1 Please remain seated as the jury leaves the courtroom.

2 (Jury exited.)

3 (The following record was made in open court, in the
4 presence of all parties, counsel, and out of the presence and
5 hearing of the jury.)

6 THE COURT: Anything else from either party before we
7 take our break?

8 MS. MAXFIELD-GREEN: No, Your Honor, just -- we do just
9 want to advise, in terms of timing, we have a witness who should
10 be arriving at the Oklahoma City airport at 2:20 and he is
11 coming --

12 THE COURT: I'm sorry. 2:20?

13 MS. MAXFIELD-GREEN: 2:20. He is coming directly here
14 to the courthouse. We have some testimony prior to that, but I
15 just wanted to advise that if -- you know, based on when we
16 finish this next witness and lunch and everything, he will -- he
17 will be here as shortly after 2:20 as we can get him here.

18 THE COURT: So your 2:20 arrival is the witness after
19 your next witness?

20 MS. MAXFIELD-GREEN: Yes. We're going to call one
21 after this break and then our very last witness is the person
22 who's arriving at 2:20.

23 THE COURT: How long do you anticipate this next
24 witness? You think it's going to take us to lunch?

25 MS. MAXFIELD-GREEN: Until lunch, yes. We think we can

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1 get to lunch.

2 THE COURT: Okay. And did you and Mr. Earley have a
3 chance to talk yesterday about -- so you're anticipating we'll
4 call the 2:20 witness that's coming in, that is your last
5 witness?

6 MS. MAXFIELD-GREEN: That is our last witness.

7 THE COURT: And do you anticipate that will consume the
8 balance of the day?

9 MS. MAXFIELD-GREEN: No. I think that probably is 30,
10 40 minutes on direct.

11 THE COURT: Okay. Mr. Earley -- well, in any event, I
12 think we should probably talk about having -- not knowing how
13 many, if any, Mr. Earley, you intend to put on, we probably
14 should have an instruction conference this afternoon, slash, this
15 evening. I don't think it will take terribly long.

16 Okay. Well, we'll cross that bridge when we come to it.
17 Court will be in recess for 15 minutes.

18 If I can see counsel in chambers.

19 (BREAK TAKEN.)

20 THE COURT: Ladies and gentlemen, my apologies for the
21 longer-than-normal break, but sometimes behind the scenes we're
22 trying to work out scheduling issues and things like that to make
23 sure that we maximize the efficiency of your time and we were
24 handling some of those scheduling matters.

25 Government's next witness?

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JOHN FINLAY - Direct by Mr. Brown

1 MR. BROWN: We'd call John Finlay.

2 (WITNESS SWORN.)

3 JOHN FINLAY,
4 DIRECT EXAMINATION

5 BY MR. BROWN:

6 Q. Good morning, sir.

7 A. Morning.

8 Q. Please state your name.

9 A. John Finlay.

10 Q. Where do you live, Mr. Finlay?

11 A. In Davis, Oklahoma.

12 Q. And just so I make sure I understand that correctly, how is
13 your last name spelled?

14 A. F-I-N-L-A-Y.

15 Q. And is it pronounced Finlay?

16 A. Finlay.

17 Q. Thank you.

18 Now, Mr. Finlay, what do you do for a living?

19 A. I'm a welder.

20 Q. Are you familiar with a person named Joe Schreibvogel, also
21 known as Joe Maldonado-Passage?

22 A. Yes, I am.

23 Q. Do you see him in the courtroom?

24 A. He's right over there. (Indicating.)

25 Q. Okay. Thank you.

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JOHN FINLAY - Direct by Mr. Brown

- 1 Now, when did you first meet Mr. Passage?
- 2 A. June 11th of 2003.
- 3 Q. Okay. And how did you come to meet him?
- 4 A. I applied for a job.
- 5 Q. Okay. And were you -- had you recently graduated high
- 6 school?
- 7 A. I graduated high school on May 11th of 2003.
- 8 Q. Okay. And did Mr. Passage hire you?
- 9 A. Yes, he did.
- 10 Q. Was that down at the park?
- 11 A. Yes.
- 12 Q. Now, on your first day of work at the park, what title did
- 13 you have?
- 14 A. I was an animal caretaker.
- 15 Q. Okay. Now, approximately how long did you work at the park?
- 16 A. In total?
- 17 Q. Yes, sir, from 2003 forward.
- 18 A. For about 17 years.
- 19 Q. Okay. And can you estimate approximately when you -- you
- 20 left the zoo?
- 21 A. I left the zoo, I think in 2016.
- 22 Q. Okay. And after leaving the zoo, where did you go work?
- 23 A. I went to work at the bar.
- 24 Q. Now, explain to us what -- what exactly is the bar?
- 25 A. The Safari Bar. It was a couple of miles from the park.

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JOHN FINLAY - Direct by Mr. Brown

1 That's what Joe opened in case to help me and my daughter out for
2 a future.

3 Q. Okay. Thank you. So it was affiliated with the zoo, but it
4 was off site?

5 A. It was kind of affiliated. It -- but it was its own
6 business.

7 Q. Okay. Now -- and, I'm sorry, was it still located in
8 Wynnewood, Oklahoma?

9 A. Yes, it was.

10 Q. Now, when you first started working in 2003, approximately
11 how many big cats would you say were at the park?

12 A. Maybe a hundred.

13 Q. Okay. And when you first started working in 2003,
14 approximately how many employees similar to you, like animal
15 caretakers?

16 A. Maybe ten.

17 Q. Okay. Now, did you -- or did the park, when you first
18 started working, did the park offer an option to take pictures
19 with animals?

20 A. Yes.

21 Q. And could you take pictures with small cubs?

22 A. With small cubs, yes.

23 Q. And at the time you first started working, was it an option
24 to participate in what's commonly known as cub playtimes or
25 petting sessions?

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JOHN FINLAY - Direct by Mr. Brown

- 1 A. When I first started, no.
- 2 Q. Over time, did that become an option for the customers?
- 3 A. Yes, it did.
- 4 Q. Now, was there also a road show involved?
- 5 A. Yes.
- 6 Q. Approximately when did that start?
- 7 A. I don't know when that started, but the first week I was
- 8 there, I was on the road.
- 9 Q. Okay. And just kind of describe -- we have heard a little
- 10 bit about it, but what exactly was the road show?
- 11 A. It was where we went out and educated the public on the
- 12 dangers and the -- like conservation stuff about them, and they
- 13 could see them and get a photo with them.
- 14 Q. And would you go to malls and fairs and other areas around
- 15 the region?
- 16 A. At first it was malls.
- 17 Q. Okay. Now, in addition to the road show, did the park
- 18 also -- or the zoo also have a magic show?
- 19 A. Later on it did, yes.
- 20 Q. And what was the name of the magic show?
- 21 A. At the time it was Mystical Magic of the Endangered.
- 22 Q. And what exactly was the magic -- the magic show?
- 23 A. It was a bunch of big illusions where Joe performed them.
- 24 Q. Did the magic show incorporate big cats and cubs into the
- 25 show?

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JOHN FINLAY - Direct by Mr. Brown

- 1 A. It incorporated cubs and other small animals.
- 2 Q. And once you got to the park, did you know whether or not
- 3 Mr. Passage was a breeder?
- 4 A. I did a couple of days after I started.
- 5 Q. Okay. And so throughout your tenure at the zoo, did
- 6 Mr. Passage breed big cats?
- 7 A. Yes.
- 8 Q. Okay. Was he pretty successful?
- 9 A. Yes.
- 10 Q. All right. During your tenure at the zoo, approximately how
- 11 many big cats would you say, on an average year, were born at the
- 12 zoo?
- 13 A. I can't give you an exact number on that.
- 14 Q. Okay. Would it be more than dozens?
- 15 A. Quite a few dozen.
- 16 Q. Okay. Did that include hybrid big cats?
- 17 A. Hybrids and standard colors.
- 18 Q. Okay. Now, when -- after the cubs were born, how soon would
- 19 Mr. Passage remove the cubs from their mother?
- 20 A. Anywhere from a day to a week.
- 21 Q. All right. Now, from 2003 forward, did the number of big
- 22 cats at the park steadily increase?
- 23 A. Yes, it did.
- 24 Q. Okay. And are you familiar with the title "The Tiger King"?
- 25 A. Yes, I am.

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JOHN FINLAY - Direct by Mr. Brown

- 1 Q. Explain what that title is, The Tiger King.
- 2 A. It was the title he was given in a Hollywood magazine.
- 3 Q. Approximately when was he anointed The Tiger King?
- 4 A. Like from 2010 to 2014 or so.
- 5 Q. And did Mr. Passage use that title?
- 6 A. Yes, he did.
- 7 Q. Did the zoo sell merchandise that was branded with The Tiger
- 8 King logo or phrase?
- 9 A. Yes.
- 10 Q. What kind of merchandise?
- 11 A. T-shirts, underwear, CDs. There was just a bunch of stuff
- 12 in the gift shop.
- 13 Q. Okay. Now, in addition to the merchandise that was
- 14 available for sale, did Mr. Passage ever wear any clothing that
- 15 was branded with that phrase or that title?
- 16 A. I don't remember him wearing any -- well, unless it was one
- 17 of his own shirts, yeah.
- 18 Q. But he would wear a shirt that said "The Tiger King" on it?
- 19 A. It had his picture on it and it had The Tiger King and stuff
- 20 on it, yes.
- 21 Q. Now, during your tenure with the zoo, do you know if
- 22 Mr. Passage ever sold any of his cubs?
- 23 A. Yes, I do.
- 24 Q. And did you ever transport any of these animals for him?
- 25 A. Yes, I did.

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JOHN FINLAY - Direct by Mr. Brown

1 Q. Now, when you would transport these animals that he was
2 selling, what type of -- what vehicle would you use?

3 A. One would be a 2015 blue F-150. The other one would be a
4 2014 Laramie Longhorn edition Dodge Ram.

5 Q. Now, were the vehicles that you used to transport the
6 animals always park vehicles or zoo vehicles?

7 A. Yes.

8 Q. All right. Would you transport both young cubs as well as
9 some older adult big cats?

10 A. Yes, I would.

11 Q. And do you recall what the youngest cubs were that you ever
12 transported?

13 A. Three to six days, I think.

14 Q. All right. And when you would transport these young cubs,
15 were they inside kennels during the transport?

16 A. Small dog kennels, yes.

17 Q. And did -- did the kennel remain inside the cab of the
18 pickup with you?

19 A. Yes.

20 Q. Okay. And did you transport cubs throughout the region and
21 the country?

22 A. Yes, I did.

23 Q. Okay. And so during a long transport, a lengthy transport,
24 were the young cubs fed?

25 A. Yes, they were.

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JOHN FINLAY - Direct by Mr. Brown

- 1 Q. What would you feed them?
- 2 A. Kitten milk replacer.
- 3 Q. Is that known as KMR?
- 4 A. Yes, KMR.
- 5 Q. And approximately how frequently would you stop to feed the
- 6 baby cubs?
- 7 A. Generally every three, four hours.
- 8 Q. Okay.
- 9 A. If they were sleeping, I wouldn't wake them.
- 10 Q. Now, are you familiar with what's known as disposition
- 11 forms?
- 12 A. Yes, I am.
- 13 Q. And describe what a disposition form is.
- 14 A. Now, are you talking about the health certificates or the
- 15 transport forms?
- 16 Q. The transport forms.
- 17 A. It's basically saying -- from the buyer to a seller and
- 18 describing what type of animal it is and what vehicles were used
- 19 and had to have the signature of the -- who was getting the cub.
- 20 Q. Okay. And when you were transporting these animals for
- 21 Mr. Passage, did you usually have these disposition forms with
- 22 you when you left the park?
- 23 A. Yes, I did.
- 24 Q. Who would provide the forms to you?
- 25 A. Either John Reineke or Joe Schreibvogel.

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JOHN FINLAY - Direct by Mr. Brown

1 Q. Okay. And were the forms already completed and filled in
2 when they were provided to you?

3 A. Yes, they were.

4 Q. During your -- during your tenure when you're transporting
5 these animals, were you paid to transport the animals?

6 A. Yes.

7 Q. And when you would actually deliver the animals to the end
8 buyer, did you ever collect payments from the folks you were
9 delivering the animals to?

10 A. Yes, I did.

11 Q. All right. Was it -- what was the form of the payment?

12 A. Most of the time it was cash.

13 Q. And what would you do with the payment once you received it?

14 A. It would go in the center console of the truck. And then
15 when I got back to the animal park, it would go straight to Joe.

16 Q. Do you recall ever transporting any animals to Brown Zoo in
17 Illinois?

18 A. Yes, I do.

19 Q. All right. Can we look at Government's Exhibit 7, please?
20 And you'll -- on the screen it will pop up, Mr. Finlay. We'll
21 try to magnify it.

22 Do you recall this disposition form dated November 16th,
23 2016?

24 A. Yes, I do.

25 Q. I believe -- or is that correct? Yes.

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JOHN FINLAY - Direct by Mr. Brown

1 All right. And do you recall whether or not you transported
2 this, looks like tiger cub?

3 A. Yes, I do.

4 Q. And was that transported to Brown's Zoo?

5 A. Yes, it was.

6 Q. Okay. Did anyone from Brown's Zoo pay you for this cub once
7 you delivered it?

8 A. Yes, she did.

9 Q. Who was that?

10 A. Nancy Brown.

11 Q. How much did Ms. Brown pay you?

12 A. I don't remember exactly how much it was.

13 Q. Okay. Do you remember if it was more than \$350?

14 A. Yes, it was more than 350.

15 Q. All right. What did you do with that money?

16 A. It went in the center console of the truck, and then when I
17 got back to the zoo it was given to Joe.

18 Q. Now, did you ever transport any animals to a gentleman named
19 Tim Stark?

20 A. Yes, I did.

21 Q. And is Mr. Stark in Indiana?

22 A. Yes, he is.

23 MR. BROWN: Can we see Government's Exhibit 11, please?

24 Q. (By Mr. Brown) Okay. Do you recall whether or not you
25 transported this white lion cub and three baboons to Mr. Stark in

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JOHN FINLAY - Direct by Mr. Brown

- 1 June of 2017?
- 2 A. Yes, I do remember this.
- 3 Q. And when you delivered these animals, did you actually meet
4 with Mr. Stark?
- 5 A. Yes, I did.
- 6 Q. Did Mr. Stark pay you?
- 7 A. Yes.
- 8 Q. Do you recall how much?
- 9 A. Ten grand.
- 10 Q. All right. What did you do with that money?
- 11 A. It went in my backpack that I traveled with, and then it
12 went straight to Joe.
- 13 Q. Okay.
- 14 MR. BROWN: Can we see Exhibit 8, please?
- 15 Q. (By Mr. Brown) Do you recall whether or not -- and this,
16 again, is back to Mr. Stark in Indiana. Did you transfer this
17 young tiger cub and this young tiliger cub to Mr. Stark in
18 February of 2018?
- 19 A. Yes, I did.
- 20 Q. Did Mr. Stark pay you for these animals?
- 21 A. Yes, he did.
- 22 Q. Do you recall how much?
- 23 A. No, I do not.
- 24 Q. Was it more than \$700?
- 25 A. It was more than 700, yes.

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JOHN FINLAY - Direct by Mr. Brown

1 Q. Okay. Now, what did you do with the money when he paid you?

2 A. It would go into my backpack and then straight to Joe.

3 Q. Okay. Did you ever transport any animals to Brown's
4 Oakridge Zoo in Illinois?

5 A. Yes.

6 Q. And is Brown's Oakridge Zoo the same as Brown Zoo that we
7 discussed earlier?

8 A. It is the same.

9 Q. It is the same. Okay.

10 MR. BROWN: Can we see exhibit, I think Exhibit 9,
11 please?

12 Q. (By Mr. Brown) All right. Do you recognize this
13 disposition form?

14 A. Yes, I do.

15 Q. All right. Did you transfer this young tiger cub to Brown's
16 Zoo on March 6 of last year?

17 A. Yes, I did.

18 Q. Did anyone from the zoo pay you for this cub when you
19 delivered it?

20 A. Yes.

21 Q. Do you remember who paid you?

22 A. Nancy Brown.

23 Q. How much did Ms. Brown pay you?

24 A. I do not remember exactly how much.

25 Q. Was -- it was one tiger cub, correct?

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JOHN FINLAY - Direct by Mr. Brown

- 1 A. Yes.
- 2 Q. Was it more than \$350?
- 3 A. Yes, it was.
- 4 Q. And, again, what did you do with that money?
- 5 A. It went straight to Joe after I got it.
- 6 Q. All right. Are you familiar with a zoo known as Animal
7 Heaven Zoo or Animal Haven Zoo in Wisconsin?
- 8 A. Yes.
- 9 Q. Have you ever transported any animals to that zoo in
10 Wisconsin?
- 11 A. Two full-grown lions.
- 12 MR. BROWN: Can we see Exhibit 12, please?
- 13 Q. (By Mr. Brown) Do you recognize this form?
- 14 A. Yes, I do.
- 15 Q. All right. Do you recall transporting these -- so were they
16 adult lions, five and seven?
- 17 A. Yes.
- 18 Q. And in June of last year you transported those?
- 19 A. Yes.
- 20 Q. Now, let me just ask you: With respect to transporting
21 adult lions, obviously they're not riding in the cab of the
22 pickup with you, are they?
- 23 A. No, they're not riding in the pickup.
- 24 Q. Okay. Explain where two adult lions, how you transport them
25 from Wynnewood, Oklahoma, up to Wisconsin.

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JOHN FINLAY - Direct by Mr. Brown

1 A. We had a trailer that we modified for transport of multiple
2 animals. It was air conditioned and it also had vents on the
3 side of it to where air would flow through.

4 Q. And so are these two adult lions, are they within an
5 enclosure and then loaded into the trailer?

6 A. They are loaded into transport cages and then they are
7 loaded into the trailer and strapped down.

8 Q. Okay. Are those -- you said transport cages. Are those
9 on -- are they on wheels?

10 A. Yes, they're on wheels.

11 Q. And when you're transporting adult big cats like this, are
12 they sedated during the transport?

13 A. These two, I think I remember they were.

14 Q. Okay. But you do recall transporting these two adult lions
15 to Animal Haven Zoo?

16 A. Yes.

17 Q. Did anyone from the zoo in Wisconsin pay you for those two
18 lions when you delivered them?

19 A. Yes, they did.

20 Q. Do you remember who paid you?

21 A. I don't remember her name.

22 Q. Okay. Do you remember how much she paid you?

23 A. 5,000.

24 Q. Okay. And what did you do with the money, Mr. Finlay?

25 A. It went in my backpack and went straight to Joe.

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JOHN FINLAY - Direct by Mr. Brown

1 Q. How about Branson Wild World in Missouri, are you familiar
2 with that facility?

3 A. Yes, I am.

4 Q. Have you ever transported any animals up to Missouri?

5 A. Yes.

6 MR. BROWN: Can we see Exhibit 13, please?

7 Q. (By Mr. Brown) All right. Do you recognize this form?

8 A. Yes, I do.

9 Q. Do you recall transporting animals, looks like June 18th of
10 last year, to Branson Wild World?

11 A. Yes, I do.

12 Q. Did anyone else accompany you and assist you during this
13 transport?

14 A. Marsha David and Bruce David.

15 Q. Anybody else?

16 A. And Johni Adkisson.

17 Q. And who is Ms. Adkisson?

18 A. At the time, she was my girlfriend.

19 Q. Okay. And can you look at the -- the animals that are
20 listed there. It looks like a baby lion, a young lion, an adult
21 lion named Moses, some serval bats -- or an African serval and
22 then some bats. Were there any other noticeable animals that
23 were transported that aren't on there?

24 A. There was some birds and there was an alligator and there
25 was some -- I think something else.

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JOHN FINLAY - Direct by Mr. Brown

1 Q. And is it fair to say that you-all used a 2004 Escalade for
2 this delivery?

3 A. Yes.

4 Q. Are you pulling a trailer as well?

5 A. Yes.

6 Q. And are there any animals within the Escalade with you?

7 A. The two cubs were in there. The two smaller cats were in
8 the trailer. The bats were in the vehicle with us. And then
9 some of the birds were also in the vehicle.

10 Q. Where was Moses?

11 A. Moses was in a transport cage in the trailer.

12 Q. Okay. And where was the alligator?

13 A. The alligator was in the back of the trailer, boarded off
14 from everything else.

15 Q. So they -- they were separated during the transport?

16 A. They were all separated.

17 Q. Either Moses or the alligator sedated during this delivery?

18 A. No.

19 Q. Okay. Now, when you-all arrived at this facility, was there
20 anyone expecting you?

21 A. There was a group of people.

22 Q. Okay. Did they assist with unloading the animals?

23 A. Yes.

24 Q. All right. And did anyone from the Branson Wild World
25 facility pay you?

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JOHN FINLAY - Direct by Mr. Brown

1 A. Yes.

2 Q. And how much did they pay?

3 A. 5,000.

4 Q. And was that \$5,000 for all the animals?

5 A. To my assumption, yes, it was.

6 Q. Okay. And what -- what did you do with the \$5,000?

7 A. It -- after the girls counted it, I -- it went into my
8 backpack and then it went straight to Joe.

9 Q. Okay. And I'm just curious, if you can explain, you have
10 testified to the -- the previous deliveries going all the way
11 back to late November of 2016. You have testified to amounts
12 between 5 and \$10,000. Was there any particular reason that
13 all -- that the large number of animals were sold for a total of
14 \$5,000?

15 A. Other than Joe was trying to get rid of his animals to -- so
16 he could vacate the premises.

17 Q. Okay.

18 A. No other reason.

19 Q. Now, during your entire tenure working at the zoo and
20 delivering animals that Mr. Passage was selling, can you estimate
21 approximately how many of these trips across state lines you
22 took?

23 A. Somewhere around a hundred.

24 Q. All right. Now, would -- again, based on your knowledge and
25 your deliveries on behalf of Mr. Passage, would Mr. Passage have

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JOHN FINLAY - Direct by Mr. Brown

- 1 ever sold any of these individual cubs or big cats for under \$350
2 per cat?
- 3 A. No. It was always over 350.
- 4 Q. Okay. Mr. Finlay, I now want to direct your attention to
5 November of 2017. Were you working at the bar at the time?
- 6 A. November of 2017, yes, I was.
- 7 Q. Okay. And do you know an individual named Alan Glover?
- 8 A. Yes, I do.
- 9 Q. How do you know Mr. Glover?
- 10 A. We worked together at the animal park.
- 11 Q. So you overlapped with him at the park?
- 12 A. Yes.
- 13 Q. Now, did you at any point in time take Mr. Glover down to
14 Dallas?
- 15 A. Yes, I did.
- 16 Q. Do you recall approximately when that trip happened?
- 17 A. October, November of 2017.
- 18 Q. All right. Who asked you to take Mr. Glover to Dallas?
- 19 A. Mr. Schreibvogel.
- 20 Q. Okay. And what vehicle did you use?
- 21 A. 2014 Dodge Ram.
- 22 Q. Was that your vehicle or was that a park vehicle?
- 23 A. Park vehicle.
- 24 Q. Okay. Did Mr. Passage pay you to take Mr. Glover to Dallas?
- 25 A. Not that I can remember.

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JOHN FINLAY - Direct by Mr. Brown

- 1 Q. All right. Do you know if he covered your expenses?
- 2 A. He covered the gas, yes.
- 3 Q. All right. Did you pick Mr. Glover up at the park?
- 4 A. Yes.
- 5 Q. And when you picked Mr. Glover up, did you know why you were
- 6 taking him to Dallas?
- 7 A. At that point in time, no.
- 8 Q. All right. Did you eventually learn why you were taking
- 9 Mr. Glover to Dallas?
- 10 A. Yes, I did.
- 11 Q. And who explained to you why you were taking Mr. Glover to
- 12 Dallas?
- 13 A. Mr. Schreibvogel.
- 14 Q. And what did Mr. Schreibvogel tell you?
- 15 A. He called me and he was hesitant of what to tell me, and
- 16 then he told me that I was taking Alan down there to get a fake
- 17 ID so he could go take care of Carole.
- 18 Q. And at the time were you aware of who Carole was?
- 19 A. Yes, I was.
- 20 Q. All right. When you -- did you take Mr. Glover to Dallas?
- 21 A. Yes, I did.
- 22 Q. And when you guys get in Dallas, did you initially locate
- 23 the correct business?
- 24 A. Yes.
- 25 Q. Okay. And what kind of business was it?

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JOHN FINLAY - Direct by Mr. Brown

- 1 A. It was like a sign shop.
- 2 Q. Did you go inside that business with Mr. Glover?
- 3 A. Yes, I did.
- 4 Q. And did Mr. Glover obtain a fake ID?
- 5 A. Yes, he did.
- 6 Q. Did you assist him with filling out some of the information?
- 7 A. Yes, I did.
- 8 Q. Now, after obtaining the fake ID in Dallas, did you-all
- 9 immediately return back to the park in Wynnewood?
- 10 A. No, we did not.
- 11 Q. Where did you go?
- 12 A. We went to James Garretson's thrift shop.
- 13 Q. Where is that located?
- 14 A. In Ardmore, Oklahoma.
- 15 Q. And when you went to Mr. Garretson's thrift shop, did you
- 16 meet with Mr. Garretson?
- 17 A. Yes. Yes, we did.
- 18 Q. Okay. What, if anything, did Mr. Garretson do when you were
- 19 meeting with him at the thrift shop?
- 20 A. He asked us for the ID and he took a fingernail file to it
- 21 and, like, roughed up the edges and took some stuff off the back
- 22 of it.
- 23 Q. Okay. Now, at any point in time after you had left Dallas,
- 24 either en route to Ardmore or after Ardmore -- so after leaving
- 25 Mr. Garretson's place, where all did you guys go?

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JOHN FINLAY - Direct by Mr. Brown

1 A. We went back to the park.

2 Q. All right. At any point in time before you arrived back at
3 the park, did Mr. Schreibvogel call you?

4 A. He called us before we got to James Garretson's place.

5 Q. And what, if anything, did he tell you?

6 A. He asked us how the ID looked, and that was the first phone
7 call. Then there was another phone call where he instructed us
8 to go see James Garretson to fix it.

9 Q. Okay. Now, when you were driving down to Dallas and he
10 called you and made the reference to Carole, what did he mean
11 when he said that you were taking Glover to Dallas to get an ID
12 to take care of Carole?

13 MR. EARLEY: Your Honor, I think that's an improper
14 question. He just responded to what the actual statement was, so
15 what he thought about that is irrelevant.

16 THE COURT: Mr. Brown?

17 MR. BROWN: I can strike that, Judge.

18 THE COURT: Okay. Please do.

19 Q. (By Mr. Brown) Let me ask you this, Mr. Finlay: Following
20 this trip to Dallas, did you continue working at the bar until
21 June of 2018?

22 A. Yes, I did.

23 Q. All right. Were you previously in a relationship with
24 Mr. Passage?

25 A. Yes, I was.

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JOHN FINLAY - Direct by Mr. Brown

- 1 Q. Okay. For how long?
- 2 A. Eleven years.
- 3 Q. All right. How long after you started working at the park
4 in the summer of 2013 did you and Mr. Passage form this
5 relationship?
- 6 A. Within two to three months or so.
- 7 Q. Okay. Now, in September of 2018 did you sit down and
8 interview with any law enforcement agents?
- 9 A. Yes, I did.
- 10 Q. Okay. Do you remember their names?
- 11 A. I can only remember their first names. Matt and Andy.
- 12 Q. Do you see them in the courtroom?
- 13 A. Yes, I do.
- 14 Q. Okay. Now, when you sat down with them, did they interview
15 you?
- 16 A. Yes, they did.
- 17 Q. Where did the interview take place?
- 18 A. In Norman, Oklahoma.
- 19 Q. And did you tell them about Glover?
- 20 A. Yes, I did.
- 21 Q. Did you tell them about the Dallas trip?
- 22 A. Yes, I did.
- 23 Q. Did you tell them about what Mr. Passage had told you while
24 you were driving down to Dallas?
- 25 A. Yes, I did.

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JOHN FINLAY - Direct by Mr. Brown

- 1 Q. All right. Did Mr. Passage call you sometime in late
2 September of 2018?
- 3 A. Yes, he did.
- 4 Q. Do you know if he was in custody at the time?
- 5 A. Yes, I did.
- 6 Q. Okay. So was that after he had been arrested?
- 7 A. Yes.
- 8 Q. All right. And were you aware that he had been arrested?
- 9 A. Yes.
- 10 Q. All right. From the news or how were you aware?
- 11 A. From the news and a lot of the animal industry.
- 12 Q. Okay. Was that call recorded?
- 13 A. Yes, it was.
- 14 Q. Prior to your testimony today, did you review that recorded
15 phone call?
- 16 A. Yes, I did.
- 17 Q. Was that call between you and Mr. Passage?
- 18 A. Yes, it was.
- 19 Q. All right. Now, you are familiar with his voice?
- 20 A. Yes.
- 21 Q. Do you recognize the voice on that recorded call as
22 Mr. Passage's?
- 23 A. Yes, I do.
- 24 Q. And was that an accurate recording of the call?
- 25 A. Yes, it was.

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JOHN FINLAY - Direct by Mr. Brown

- 1 MR. BROWN: We'd move for admission of Government's 61.
- 2 THE COURT: Any objection?
- 3 MR. EARLEY: No objection.
- 4 THE COURT: Government's 61 will be admitted.
- 5 MR. BROWN: And 61-A, Judge. Sorry.
- 6 THE COURT: Any objection to 61-A, Mr. Earley?
- 7 MR. EARLEY: Just the same objection.
- 8 THE COURT: Same objection? Objection will be
- 9 overruled. 61, 61-A will be admitted.
- 10 Q. (By Mr. Brown) Okay. Mr. Finlay, we're going to play that
- 11 recorded call. And your testimony is that this was in late
- 12 September of 2018?
- 13 A. Yes.
- 14 Q. Okay.
- 15 (Audio played in open court.)
- 16 Q. (By Mr. Brown) Mr. Finlay, during that call did Mr. Passage
- 17 bring up the Dallas trip?
- 18 A. Yes, he did.
- 19 Q. Did Mr. Passage bring up Florida?
- 20 A. Yes, he did.
- 21 Q. And is it fair to say that during that call it seemed like,
- 22 at the beginning and at the end of the call, he was pretty
- 23 emotional?
- 24 A. Yes.
- 25 Q. And when he -- when you told him that you had met with the

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JOHN FINLAY - Cross by Mr. Earley

1 FBI, did his demeanor change?

2 A. Yes.

3 MR. BROWN: Pass the witness, Judge.

4 THE COURT: Cross-examination?

5 **CROSS-EXAMINATION**

6 **BY MR. EARLEY:**

7 Q. So, Mr. Finlay, you picked up Glover for this November trip
8 to Dallas and had no idea what was going on, correct?

9 A. At the time I picked him up?

10 Q. Yes.

11 A. No, I did not.

12 Q. So you weren't included in any conversations that there may
13 have been between Mr. Passage and Mr. Lowe, correct?

14 A. I was not included.

15 Q. You were not included in any conversations that there may
16 have been between Mr. Lowe and Mr. Glover, correct?

17 A. Not in any of those conversations, no.

18 Q. All right. So you just had the task of driving him down
19 there, right?

20 A. I was asked to take him down. That was it.

21 Q. And you didn't know any of the background story, correct?

22 A. What do you mean?

23 Q. At the time. Any background story as to why you were taking
24 him to Dallas?

25 A. I did know about Carole Baskin and that type of stuff, yes.

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JOHN FINLAY - Cross by Mr. Earley

- 1 Q. Well, yes, but I'm talking about why he was going to Dallas.
- 2 A. No.
- 3 Q. Okay. Now, you stated that when he called you on -- I guess
- 4 it was on your way down there, did he call?
- 5 A. Yes.
- 6 Q. Okay. He was kind of hesitant, is that what you said?
- 7 A. Yes.
- 8 Q. And so do you recall Mr. Passage telling you to park some
- 9 distance away from the facility where you were supposed to go to
- 10 get the ID?
- 11 A. Yes.
- 12 Q. And did he tell you to park some distance away because he
- 13 didn't want you to be associated with what was going on? Do you
- 14 recall that?
- 15 A. And because he had a sticker on the back of his truck with
- 16 his face on it.
- 17 Q. Well, whatever.
- 18 A. Yes.
- 19 Q. But he didn't want you getting close to the place, correct?
- 20 A. Yes.
- 21 Q. All right. And so you said that he called when you were on
- 22 your way back from the store, correct?
- 23 A. Yes.
- 24 Q. And he asked you to tell him what it looked like?
- 25 A. Yes.

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JOHN FINLAY - Cross by Mr. Earley

- 1 Q. What did you tell him?
- 2 A. I told him that it looked pretty real.
- 3 Q. Okay. And then he called you back again and told you to go
- 4 by Garretson's?
- 5 A. Yes.
- 6 Q. All right. Did you have any other conversations other than
- 7 this phone call last September with Mr. Passage about this ID?
- 8 A. No.
- 9 Q. Okay. Never mentioned again?
- 10 A. Never mentioned again.
- 11 Q. Okay. Now, you stated that you started at the park in 2003
- 12 and left -- well, how long were you employed either at the park
- 13 or at the bar?
- 14 A. For over 17 years.
- 15 Q. Okay. And I guess you said you left the zoo at one point
- 16 and went to the bar. Were they completely separate businesses?
- 17 A. Completely separate.
- 18 Q. And you said something about he had set the -- the bar up
- 19 for you and your daughter. Is that what you stated?
- 20 A. Yes.
- 21 Q. What did you mean by that?
- 22 A. So that I could run the bar and then later on we would be
- 23 able to have money, income to raise my daughter.
- 24 Q. Okay. Mr. Passage loved your daughter, didn't he?
- 25 A. Yes.

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JOHN FINLAY - Cross by Mr. Earley

1 Q. Now, when you were at the park, what was it like working at
2 the park?

3 A. In the beginning, it was fun and we actually got to
4 entertain with the animals and stuff.

5 Q. And did you interact with Mr. Passage on a daily basis?

6 A. Yes, I did.

7 Q. Okay. So what kind of things would he do on a daily basis
8 at the park?

9 A. Feed cubs, mess with different bigger cats, mess with social
10 media, different, like, stuff like that.

11 Q. Okay. Now, while you were working there and with him, did
12 Mr. Passage do community functions?

13 A. What do you mean?

14 Q. Did he do things in the community? Did he have anything
15 that he provided, like a Thanksgiving dinner or parades or things
16 like that?

17 A. Was active with the community with doing Thanksgiving, like,
18 different days free for each town or county. Even Easter egg
19 hunts, stuff like that.

20 Q. Okay. So he'd actually have days where he let in certain
21 groups, whoever they were associated with, for free; is that
22 right?

23 A. Yes.

24 Q. Okay. Now, this park had a studio, didn't it, at least a
25 little bit later on, maybe?

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JOHN FINLAY - Cross by Mr. Earley

- 1 A. Two different studios.
- 2 Q. Okay. And there was actually a TV show; is that right?
- 3 A. Yes.
- 4 Q. Do you remember what the name of it was?
- 5 A. I know it was Joe Exotic something. Joe Exotic TV is what
- 6 it was.
- 7 Q. And kind of explain, if you know, what -- what was it? Was
- 8 it something that was broadcast over the web or was it an actual
- 9 show that was being produced?
- 10 A. At first it was broadcasted over YouTube, and then later on
- 11 it was also included on Facebook.
- 12 Q. And the show was -- how long did it go on? Do you remember
- 13 when it actually started?
- 14 A. No, I do not.
- 15 Q. Okay. Did you ever appear in any of the shows?
- 16 A. Quite a few times.
- 17 Q. Okay. And, in general, what were the shows about?
- 18 A. Most generally it was about animals.
- 19 Q. Okay. Did occasionally Carole Baskin come up on the shows?
- 20 A. Yes.
- 21 Q. All right. Well, when she would come up as a topic on the
- 22 show, was that generally the -- the entire focus of the entire
- 23 show or just a part of it?
- 24 A. At times it was, like, half of it.
- 25 Q. And how often did the show air?

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JOHN FINLAY - Cross by Mr. Earley

1 A. Five to six days a week.

2 Q. Okay. Were there a good number of these shows that were put
3 out over YouTube or on Facebook that had nothing to do with
4 Carole Baskin?

5 A. Quite a few, yes.

6 Q. All right. Now, you stated that you transported a number of
7 animals for Mr. Passage, right?

8 A. Yes.

9 Q. Okay. And that normally you would get the animal and you
10 were provided one of these forms; is that correct?

11 A. Yes.

12 Q. All right. And just a couple of them.

13 MR. EARLEY: Could you put up Government'S Exhibit 7?

14 Q. (By Mr. Earley) So these forms would be given to you before
15 you took off for the destination, would that be right?

16 A. Yes.

17 Q. Okay. And, for example, on this one, do you know who
18 actually filled this out?

19 A. No, I do not.

20 Q. All right. Can you remember, when you were transporting,
21 who did you receive these forms from the most, Mr. Passage or
22 from John Reineke?

23 A. That, I do not remember.

24 Q. Well, was it fairly even or was one more than the other?

25 A. Most of the time it was Mr. Schreibvogel.

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JOHN FINLAY - Cross by Mr. Earley

1 Q. Okay. And it appears that the only thing on here is his
2 name, the receiver, and then a description of the animal,
3 correct?

4 A. Correct.

5 Q. And someone wrote "donated" over there, correct?

6 A. Yes.

7 Q. But there's no signature or identifying information for the
8 person who's supposed to sign at the bottom, correct?

9 A. Yes.

10 Q. So do you know what happens to these forms after they're
11 turned in?

12 A. After I return the signed one? No, I do not.

13 Q. Okay. Now, you were paid for your work; is that right?

14 A. Yes.

15 Q. Okay. And how were you paid?

16 A. Where --

17 Q. By check or cash?

18 A. Which business?

19 Q. At the zoo.

20 A. There was times it was cash and times it was check.

21 Q. All right. Now, this phone call that was held back in
22 September, he called you, correct?

23 A. Yes.

24 Q. All right. And I'm -- it's pretty clear he's emotional
25 during the call; is that right?

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JOHN FINLAY - Cross by Mr. Earley

- 1 A. Yes.
- 2 Q. It's also clear that he had read his indictment, correct?
- 3 A. Yes.
- 4 Q. You hadn't, right?
- 5 A. I have never seen it.
- 6 Q. But he was trying to explain to you what they had alleged
- 7 against him. Do you recall that?
- 8 A. Yes.
- 9 Q. All right. And did you have additional phone calls with
- 10 Mr. Passage after that one?
- 11 A. There was maybe one or two.
- 12 Q. All right. Anything substantive discussed between the two
- 13 of you?
- 14 A. Not that I can remember.
- 15 Q. All right. After those one or two additional calls, did you
- 16 have any further contact with him?
- 17 A. No.
- 18 Q. Was there any particular reason why?
- 19 A. Other than me trying to start my life, no.
- 20 Q. Okay. And if -- were you approached by anyone to ask you to
- 21 sell your story about this matter?
- 22 A. Approached to sell my story?
- 23 Q. Did anyone in the media approach you and offer you any
- 24 money?
- 25 A. If you're meaning the documentary that I'm doing, yes.

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JOHN FINLAY - Cross by Mr. Earley

1 Q. Okay. So you were paid by someone, they're doing a
2 documentary on you?

3 A. For selling my photos and anything I have of me or
4 Mr. Schreibvogel.

5 Q. Okay. So somebody has gotten with you to see if you would
6 give them rights to certain things so that they could either
7 publish them or film them or write about them, correct?

8 A. Yes.

9 Q. All right. And so I guess contrary to your statement about
10 taking further calls from Mr. Passage, you're not really ready to
11 move on with your life as far as this chapter, correct?

12 A. Me talking about what has happened in my life is helping me
13 move on.

14 Q. And you're getting paid for it, correct?

15 A. For items that I'm selling to them.

16 Q. All right.

17 A. Like photos or videos or stuff from the park.

18 Q. Okay. So in some way the notoriety of this case and your
19 being a witness in this case is going to be financially
20 beneficial to you, correct?

21 A. No.

22 Q. No? Well, would you get that money otherwise?

23 A. Yes.

24 Q. Well, who would want your story if this didn't have any
25 public interest?

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JOHN FINLAY - Redirect by Mr. Brown

1 A. Well, the story -- the story wasn't started about me. It
2 was started about him. And ever since this case started, that's
3 when it kicked into higher gear, because I had never received a
4 phone call until all this has happened.

5 Q. So your participation in this event has been financially
6 lucrative for you?

7 A. Not all the interviews I have done have been.

8 Q. All right.

9 MR. EARLEY: Nothing further.

10 THE COURT: Redirect?

11 **REDIRECT EXAMINATION**

12 **BY MR. BROWN:**

13 Q. We have heard about a documentary. Who's the feature of the
14 documentary?

15 A. Mr. Schreibvogel.

16 Q. I mean, you were with him from 2003 forward. Is it -- is
17 Mr. Schreibvogel somewhat of a showman?

18 A. Yes.

19 Q. Okay. And so there's a documentary -- or a documentarian
20 following him and trying to build a story about him, correct?

21 A. Yes.

22 Q. Do you know if Mr. Schreibvogel has been selling or offering
23 his story for sale?

24 A. I do not know that.

25 Q. Okay. When was the first sit-down that you had with anyone

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JOHN FINLAY - Redirect by Mr. Brown

1 from Mr. Schreibvogel's feature film or documentary?

2 A. Either late last year or early this year. It might be early
3 this year.

4 Q. So it was after he had been arrested?

5 A. Yes.

6 Q. It was after you had talked to the FBI?

7 A. Yes.

8 Q. And it was after you had talked to Mr. Passage on that
9 recording that we just heard?

10 A. Yes.

11 Q. When you heard him say that you had hung him out to dry?

12 A. Yes.

13 MR. BROWN: Pass the witness, Judge.

14 THE COURT: Anything further, Mr. Earley?

15 MR. EARLEY: Nothing further.

16 THE COURT: Thank you, Mr. Finlay. You may step down.

17 Ladies and gentlemen, we are going to take our lunch break
18 now. I have got a mixed bag of news that you can figure out
19 whether it's good, bad, whatever. As I was saying, sometimes
20 through -- the good news is, is because you have been working so
21 hard, the case is moving along at a good pace. It is -- it still
22 remains to be seen, but it is not likely that it's going to take
23 as long as we had originally anticipated, which I'm sure for most
24 of you that's good news.

25 The down side to that is as the lawyers work very hard to

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1 get witnesses here at the right time or whatever, the next
2 witness for the government actually comes in on a flight just a
3 little bit after 2:00. And so what that means is, is we're going
4 to take a long lunch. That's a piece of good news for you. You
5 don't have to remain here.

6 I'm going to ask that you be back here in the jury assembly
7 room at 2:30. The import of that, particularly with a long
8 lunch, is that you will likely leave the courthouse and things
9 like that. It is highly important -- again, I remind you of your
10 admonition not to discuss the case, be very wary of anybody
11 trying to contact you about it or provide you with any
12 information. Stay away from the TV news, Internet, things like
13 that where you could -- something might come up. Again, the only
14 thing that is evidence is what you hear in this courtroom.
15 That's very, very important.

16 With that admonition, we will break. And as soon as we can
17 get the witness here, but if you-all will be back here in the
18 jury assembly room at 2:30.

19 Please remain seated while the jury leaves the courtroom.

20 (Jury exited.)

21 (The following record was made in open court, in the
22 presence of all parties, counsel, and out of the presence and
23 hearing of the jury.)

24 THE COURT: Record will reflect the jury has left the
25 room.

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1 Ms. Green, I would just encourage you, as quickly as we can
2 get our -- your witness here from the airport, if they need to
3 run code three and hot.

4 MS. MAXFIELD-GREEN: That's the plan, Your Honor.

5 THE COURT: Minimize the delay to the jury.

6 And then, Mr. Earley, have you heard from your office in
7 terms of scheduling yet?

8 MR. EARLEY: No, not yet.

9 THE COURT: I would ask that as soon as you do -- I
10 know that you're -- you're waiting. As soon as you do, if you
11 would let Ms. Green and Marcia know as soon as we know something,
12 if we know something, and then we will adjust accordingly. We'll
13 make a decision about jury instruction conference and that kind
14 of thing after we know that.

15 MR. EARLEY: All right.

16 THE COURT: Anything else from either party before we
17 break?

18 MS. MAXFIELD-GREEN: No, Your Honor.

19 MR. EARLEY: No, Your Honor.

20 THE COURT: Court will be in recess.

21 (BREAK TAKEN.)

22 (The following proceedings were had at the bench and out of
23 the hearing of the jury.)

24 MS. MAXFIELD-GREEN: Your Honor, we'd like to make a
25 record about the witness who is about to testify. He is an

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1 undercover FBI agent. And pursuant to your ruling, you have
2 allowed him to testify under a pseudonym. And, therefore, when
3 he is asked his name, he will introduce himself as Mark Williams.
4 His true name has been provided to the defense so that they could
5 do any necessary research for cross-examination, and your order
6 was pursuant to an agreement between the parties to that end.

7 The Government also requests that the Court issue an order
8 or a statement -- an order would be our preference -- but in lieu
9 of an order, a statement to the gallery that no one should sketch
10 this witness due to safety concerns because he is engaged in
11 ongoing undercover operations.

12 THE COURT: Defense?

13 MR. WACKENHEIM: We have received the name that the
14 Government's provided to us. We have been able to use that
15 information to do our investigation on our end. We have full
16 intention to comply with the Court's order of using the pseudonym
17 of Mark Williamson --

18 MS. MAXFIELD-GREEN: Mark Williams.

19 MR. WACKENHEIM: Williams. Okay. Mark Williams.

20 And with respect to the courtroom sketch, I'm not sure the
21 Court has the authority to do that. We think it might also in
22 some way touch upon Mr. Passage's right to a public -- an open
23 trial. So I also believe that to the extent the media's
24 involved, they should have an ability to interject their position
25 if the Court --

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1 THE COURT: Let me ask, in terms of the witness
2 testifying under the pseudonym, Counsel, did you intend to cover
3 that with him or simply present him under --

4 MS. MAXFIELD-GREEN: I did not. I intend to ask him
5 his name and he will say Mark Williams. I intend to then proceed
6 with establishing that he is, in fact, an FBI agent.

7 THE COURT: Counsel, do you agree with that?

8 MR. WACKENHEIM: It's no problem.

9 THE COURT: In regard to the gallery, the sketch folks
10 here, again, I am unsure -- and I don't think I have seen any
11 authority that suggests that I can order the gallery not to do
12 that. I am happy to make that request. It was not my intent to
13 do that on the record, but do the parties want that on the
14 record?

15 MS. MAXFIELD-GREEN: Yes. Yes.

16 THE COURT: Okay.

17 MS. MAXFIELD-GREEN: Outside the hearing of the jury,
18 of course.

19 THE COURT: Absolutely. Absolutely.
20 Okay. Anything else?

21 MS. MAXFIELD-GREEN: Your Honor, we have got a
22 47-minute video, or audio to listen to, and would it be okay if I
23 sit down during the playing of that audio?

24 THE COURT: Of course.

25 MS. MAXFIELD-GREEN: Thank you.

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1 THE COURT: Anything else?

2 MS. MAXFIELD-GREEN: I believe that's it.

3 (The following record was made in open court, in the
4 presence of all parties, counsel, and out of the presence and
5 hearing of the jury.)

6 THE COURT: Record will reflect that court is back in
7 session. The jury has not returned to the courtroom.

8 It's my understanding from the government that the next
9 government witness will be the undercover FBI agent. And I would
10 ask -- I know that throughout the course of the trial we have a
11 number of members of different areas of journalism here,
12 including some sketch artists. And I would ask that the --
13 anyone -- the sketch artists in the room to please not do any
14 sketches of the undercover officer for safety concerns. I know
15 that there have been a number of sketches that have been out
16 there. And, in fact, my teenage son said, "They were generous
17 with your hair, dad." So in any event, I would ask that if you
18 would please refrain from any kind of description or depiction of
19 the undercover officer.

20 Anything else from either party?

21 MS. MAXFIELD-GREEN: No, Your Honor.

22 MR. WACKENHEIM: No, Your Honor.

23 THE COURT: Please bring in the jury.

24 (The following record was made in open court, in the
25 presence of all parties, counsel, and in the presence and hearing

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1 of the jury.)

2 THE COURT: Record will reflect the jury is back in the
3 courtroom.

4 Government's next witness?

5 MS. MAXFIELD-GREEN: Government calls Mark Williams.
6 (WITNESS SWORN.)

7 MARK WILLIAMS,
8 DIRECT EXAMINATION

9 BY MS. MAXFIELD-GREEN:

10 Q. Good afternoon, sir. Could you please state your name for
11 the record?

12 A. Yes, ma'am. My name is Mark Williams.

13 Q. And, Mr. Williams, how are you employed?

14 A. I'm currently employed as an agent with the FBI.

15 Q. How long have you been an FBI agent?

16 A. It will be ten years this May.

17 Q. And as part of your employment for the FBI, do you serve in
18 an undercover capacity as an undercover agent?

19 A. Yes, ma'am. I'm a certified undercover for the FBI. I have
20 been since March of 2015.

21 Q. And when you become an undercover for the FBI, do you
22 undergo special training that's separate from the typical FBI
23 training?

24 A. Yes, ma'am. There's a two-week certification course that is
25 all inclusive; meaning it will kind of cover every violation that

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1 the FBI works, whether that be drugs or white collar or
2 counterterrorism. And then after that certification course, if
3 you're successful in it, you may undergo additional training in
4 certain areas depending.

5 Q. About how many undercover operations have you participated
6 in?

7 A. Approximately 30.

8 Q. Were you asked to serve as an undercover agent in an
9 investigation into Joseph Maldonado-Passage?

10 A. Yes, ma'am, I was.

11 Q. And when were you contacted to do that?

12 A. It would have been roughly November 2017.

13 Q. What information, if any, did you review about the case
14 before you took on your first undercover role?

15 A. I would have spoken with the case team about what the --
16 what the lay of the land was, so to speak; what the -- if they
17 had a cooperating witness, or a CHS, as we call them in the FBI,
18 and they did; what that CHS was reporting; maybe a little bit of
19 background on the defendant.

20 Sorry.

21 Q. Yeah, this mic is very sensitive.

22 Typically, in an undercover investigation, what other
23 information, if any, would you want to know to prepare?

24 A. Well, to prepare I wouldn't go into a lot of depth with the
25 case team, and that's by design. I don't want to find myself

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1 saying something that only an investigator would know when I'm
2 with the subject. When I'm talking to that person, I don't want
3 to make a slip of the tongue and say something that I would have
4 no reason to know. So other than those items that I have already
5 discussed, that would be about the extent of it.

6 Q. And you referenced this already, that -- to your knowledge,
7 did this investigation already have a confidential human source
8 involved?

9 A. Yes, ma'am, it did.

10 Q. And was that confidential human source James Garretson?

11 A. Yes, ma'am.

12 Q. And, to your knowledge, did James Garretson arrange for an
13 introduction of you to Mr. Passage on December 8th of 2017?

14 A. Yes, ma'am.

15 Q. And did you, in fact, meet Mr. Passage on December 8th of
16 2017?

17 A. I did.

18 Q. Do you see Mr. Passage here in the courtroom today?

19 A. I do, yes, ma'am.

20 Q. Could you just describe for the record what he's wearing?

21 A. He's the gentleman seated at defense counsel table with a
22 blue suit and blue tie, white shirt.

23 Q. Where were you when you met Mr. Passage?

24 A. At his business location in Wynnewood, Oklahoma.

25 Q. When you met him, were you wearing a recording device?

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1 A. I was.

2 Q. And prior to your testimony, have you had a chance to review
3 the audio of that?

4 A. Yes, ma'am.

5 Q. Is it a fair and accurate recording of the conversation as
6 you recall it?

7 A. It is.

8 Q. And in that recording do we primarily hear three voices?

9 A. Yes, ma'am. That's -- primarily you would hear myself, the
10 defendant and the CHS.

11 Q. Okay. Did occasionally some other people walk into the room
12 when you were having the conversation?

13 A. Yes, ma'am. There would have been workers or other people
14 at the defendant's business location that would have interacted
15 with us briefly.

16 MS. MAXFIELD-GREEN: Government moves to admit
17 Exhibit 63.

18 THE COURT: Any objection?

19 MR. WACKENHEIM: No objection.

20 THE COURT: 63 will be admitted.

21 MS. MAXFIELD-GREEN: And, Your Honor, we're going to go
22 ahead and play that video. It is -- I'm sorry. It's audio.

23 That is a 47-minute audio, so I'm going to take my seat if that's
24 okay.

25 THE COURT: That will be fine. Now, is that 63 and

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1 63-A?

2 MS. MAXFIELD-GREEN: Just 63, Your Honor.

3 THE COURT: Just 63. Okay.

4 (Audio played in open court.)

5 Q. (By Ms. Maxfield-Green) Okay. Mr. Williams, I'm going to
6 ask you a few questions about that conversation. Okay?

7 A. Okay.

8 MS. MAXFIELD-GREEN: Your Honor, I'm going to ask him a
9 few questions about the conversation and -- well, first let me
10 lay a foundation here.

11 Q. (By Ms. Maxfield-Green) Mr. Williams, have you had the
12 opportunity to review a transcript of that recording?

13 A. Yes, ma'am, I have.

14 Q. And based on your participation in the conversation, is it a
15 fair and accurate transcription of the recording?

16 A. Yes, ma'am, it is.

17 MS. MAXFIELD-GREEN: Your Honor, I would like
18 permission to use certain pages of that transcription as a
19 demonstrative, both to refresh Mr. Williams and as an aid to the
20 jury so that they can -- we can essentially discuss what was
21 being said since there was a lot going on in that audio.

22 THE COURT: You don't intend to move it into evidence
23 at the conclusion?

24 MS. MAXFIELD-GREEN: No, just use it as a
25 demonstrative.

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1 THE COURT: Any objection?

2 MR. WACKENHEIM: Same as before, Your Honor.

3 THE COURT: Objection will be overruled. You can use
4 it as a demonstrative exhibit.

5 Q. (By Ms. Maxfield-Green) So after you had been introduced to
6 Mr. Passage -- and in this transcription is JM, is that
7 referencing the defendant as Joseph Maldonado?

8 A. Yes, ma'am.

9 Q. Okay. And also in this transcription is the UCE, does that
10 refer to you?

11 A. Yes, ma'am. That's a term the FBI uses for undercover
12 employee.

13 Q. Okay. And where it says CI, is that Mr. Garretson?

14 A. It is.

15 Q. Okay. Now, Mr. Maldonado says, "This bitch has cost us
16 almost three-quarter of a million dollars in lawyers already."
17 And who do you believe that he was referring to?

18 A. Carole Baskin.

19 Q. And he says here, "She sues us every fucking minute, every
20 time we turn around, and then like right now she's got four or
21 five lawsuits against us."

22 Did you have any knowledge about that prior to entering in
23 as an undercover?

24 A. I knew Ms. Baskin's name and I knew there was generalized
25 business disputes between the two of them, or between the

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1 defendant and Ms. Baskin of some type.

2 Q. And he says, "Yeah, just to bankrupt us in lawyers because
3 she wants us out of business and then she'll turn around about a
4 month after trial and sue you again."

5 Did you know what that was about?

6 A. Just the nature of what he was -- as I understood it, what
7 he was explaining to me was that Ms. Baskin was essentially
8 harassing him with lawsuits in an attempt to drive him out of
9 business.

10 Q. Okay. So here in the middle of the page Mr. Maldonado says,
11 "What's something like that run?" And you say, "Hmmm, usually
12 about ten." What are you talking about?

13 A. Murder for hire, and specifically charging \$10,000 to commit
14 one.

15 Q. Okay. And then later on he -- let's see -- well, after that
16 he says, "I know everybody's been, what, pooling together. I
17 think you could get 20." What -- and are we talking \$10? What
18 amount of money are we talking?

19 A. No, ma'am. At this point I'm talking thousands of dollars.
20 So references to 10 are \$10,000, references to 20 are \$20,000,
21 references to 5 are \$5,000.

22 Q. And you say, "Is that right? Well, if you -- if it's not
23 just talk, man, I'll do it." And what does Mr. Maldonado say
24 back?

25 A. "What do you need down? 10?" In the form of a question.

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1 Q. When he says "what do you need down," what does that mean?

2 A. What essentially would I like up front, the amount that I
3 would like to be paid prior to committing the murder with the
4 understanding that I would be paid an additional amount following
5 the act.

6 Q. Okay. And let's see -- and you say, "Man, I would like --
7 I'd like half." Would that mean \$5,000?

8 A. That's what I intended to convey, yes, ma'am.

9 Q. And he says, "Ten down" -- and he says, "Ten down, ten when
10 it's on the noose, she's dead." What did you understand from the
11 conversation that that meant?

12 A. That he might be willing to pay me \$10,000 up front and then
13 another \$10,000 upon Ms. Baskin's death.

14 Q. And so you say, "Well, I mean, I would like half, that would
15 be ideal." So how much money are you asking for?

16 A. I had not come off that \$5,000 -- or excuse me -- the
17 \$10,000 figure, so I'm asking for \$5,000 at that point.

18 Q. Okay. Later on in the conversation Mr. Maldonado says,
19 "There's so many fucking street cameras nowadays." What did you
20 take that to mean?

21 A. That to the extent that I was going to conduct surveillance
22 on Ms. Baskin, I would have to be careful or at least wary of
23 camera -- cameras in the area.

24 Q. Okay. And, let's see, Mr. Maldonado says, "She's stupid
25 because she has that Facebook live shit and she has some bike

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1 path that she rides to work on a bicycle."

2 What did you understand that that had to do with anything?

3 A. That Ms. Baskin was not being careful about her, for lack of
4 a better term, pattern of life, so you could figure out where she
5 was and what time she was there by viewing her social media.

6 Q. The discussion of the -- you say to him, "I want to make
7 sure, you know, if you're in some sort of business dispute with
8 her, she's suing you all the time." And he says, "Shit, me
9 running for governor, everybody sees me up here." And you say,
10 "Well, that's what I was going to say, we have got to make sure
11 it's a day that you're out in public."

12 What was the idea behind that?

13 A. My belief was that if Ms. Baskin was murdered, the defendant
14 would be a suspect in that murder due to the ongoing business
15 dispute. And so I was talking about him having an alibi to prove
16 that he was not involved in the murder.

17 Q. All right. Later on in the conversation you ask for her
18 name, and what name does he tell you?

19 A. Carole Baskin.

20 Q. All right. And you say to him, "Hey, man, if you're serious
21 about it, you let me know." And what does Mr. Maldonado say?

22 A. We'll get James the money.

23 Q. And who did he mean?

24 A. The CHS.

25 Q. James Garretson?

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- 1 A. Yes, ma'am.
- 2 Q. And again, you say, "So I would need -- what do you think
3 you could get up front?" And what does he say?
- 4 A. We can get five easy.
- 5 Q. And again, is that \$5,000?
- 6 A. Yes, ma'am.
- 7 Q. And you ask, you can get five, he says yeah, and you reply
8 that that would be perfect.
- 9 A. Yes, ma'am.
- 10 Q. So at that point in the conversation, what was your
11 understanding of what had been agreed to?
- 12 A. That Mr. -- Mr. Passage, the defendant, had agreed to hire
13 me to kill Ms. Baskin.
- 14 Q. And what was your understanding of how that money was going
15 to be given to you?
- 16 A. Through the CHS after it was collected.
- 17 Q. All right. Later in the conversation you say, "Is this a
18 deal where she would just -- you'd just prefer her disappear
19 or" -- and he says, "Yeah, I mean, we can."
- 20 You say, "I mean I can do it any way you-all want, don't
21 matter."
- 22 What does Mr. Maldonado say?
- 23 A. "I just want -- the bitch has to go -- has got to go away,
24 got to go away."
- 25 Q. Based on your understanding of the context of the

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1 conversation, what does "go away" mean?

2 A. Die, be murdered.

3 Q. Okay. Later on in the conversation you say, "Yeah, yeah,
4 I just need to know, you know, where she lives. Where -- I mean,
5 if you have all that -- if you-all have that, any -- any
6 information you got on her, so I can make sure."

7 And then Mr. Maldonado says, "How much do you need?" And in
8 the audio it sounds -- there's a noise. What was happening in
9 that part of the conversation?

10 A. At this point we're in Mr. Maldonado's office and I'm -- I'm
11 asking for information related to Ms. Baskin and he provided me
12 with a number of documents related to her.

13 Q. And did he tell you that he got all of that out of her
14 office?

15 A. Yes, ma'am.

16 Q. Okay. Later in the conversation, let's see, you ask -- you
17 said, "She rides her bike to work?" And what does he say?

18 A. "Well, she rides. I have never -- I have just seen her live
19 videos."

20 Q. And what was that a reference to?

21 A. Again, where -- the potential locations for the murder to
22 take place or surveillance of Ms. Baskin prior to.

23 Q. Okay. Then he says, "See, the -- but I bet you she's got
24 her house so fucking burglar alarmed." What did you understand
25 the concern to be there?

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1 A. That she had security at the house and that that wouldn't be
2 an ideal location to commit the act.

3 Q. Okay. Later on in the conversation you say, "But I -- I
4 mean, what I would do, I would go get two cheap-ass burner phones
5 so that I can call you and say, hey, this -- today's the day so
6 that, you know, be out in public."

7 Now, this is something you suggest. What was the thought
8 behind that?

9 A. The thought would be to have a secure method of
10 communication between the two of us, or at least a method of
11 communication that was unattributable to either of us. So when
12 I'm making reference to a burner phone, I'm making reference to a
13 disposable prepaid cell phone.

14 Q. And then Mr. Maldonado responds, "Think you can go to
15 Walmart, you got a couple hours in Walmart." What did that mean
16 to you?

17 A. That would be one place to obtain a burner or disposable
18 cell phone.

19 Q. All right. Later in the conversation -- let's see.
20 Mr. Maldonado says, "He said you" -- you something -- you
21 something about him flying down there, and Mr. Garretson says,
22 "Probably Monday, Tuesday, or middle of next week maybe." And
23 Mr. Maldonado says, "He's flying, I bet. I mean, they can track
24 him going from here to there."

25 What did you understand the concern to be?

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1 A. If I was traveling by airplane there would be a record of
2 that travel.

3 Q. Okay. So do you tell him you're not going to travel by air?

4 A. Correct. I tell him that I'm going to drive.

5 Q. Okay. And in the conversation he says, "She's going to be
6 hard to get by herself." And then he observes -- there's a
7 discussion of -- Mr. Garretson references Big Cat Rescue. Did
8 you know what Big Cat Rescue was?

9 A. I believe it was Ms. Baskin's business.

10 Q. Mr. Maldonado says, "Well, they got a front gate and a back
11 entrance." And then he goes on to say, "They got a back entrance
12 too, but uh."

13 And what does -- what does all that mean? What are you
14 discussing?

15 A. The physical structure of her business for surveillance
16 purposes.

17 MS. MAXFIELD-GREEN: Sorry, Your Honor. I just need a
18 moment. I have lost my place here.

19 THE COURT: Take your time.

20 Q. (By Ms. Maxfield-Green) Oh, there we go. Sorry.

21 Okay. So in the conversation you say, "And that's why I was
22 asking, like, is it better if she just disappears one day or, you
23 know."

24 When you talk about making someone disappear what are you
25 talking about?

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1 A. Killing someone in a manner where their body would not be
2 found.

3 Q. And Mr. Maldonado responds, "I don't -- I don't even know
4 how you would -- how would you just make somebody disappear? You
5 would have -- that would take some work to carry that fat bitch."

6 What did you understand him to be -- to mean, or to be
7 concerned about?

8 A. That transporting the body would be an issue once she was
9 murdered.

10 Q. And then Mr. Maldonado, shortly after that comment, says,
11 "Just, like, follow her into a parking lot and just cap her."
12 What does it mean to cap someone?

13 A. Shoot, kill.

14 Q. And then he says, "Just drive off."

15 A. Yes, ma'am.

16 Q. What did you understand that proposal to be?

17 A. His suggestion was that I follow her into a public place,
18 pull a vehicle up on her or next to her and shoot her and then
19 drive off.

20 Q. All right. Later, much later in the conversation
21 Mr. Maldonado says, "Let me get my," something we can't
22 understand, "so if you can shoot for Wednesday, let me get -- put
23 the money together by Wednesday."

24 What did you understand the money was to be for?

25 A. The down payment on the murder for hire.

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1 Q. And to the best of your recollection, was December 8th a
2 Friday?

3 A. Yes, ma'am, I believe so.

4 Q. And so is he talking about getting the money together by the
5 following Wednesday?

6 A. That was my understanding, yes, ma'am.

7 Q. So at that point in the conversation, when he's stated "let
8 me get -- put the money together by Wednesday," what was your
9 understanding of the status of your agreement with Mr. Passage?

10 A. That he had -- that we had agreed that I would commit a
11 murder for hire for him and that he was going to get the money
12 together to pay me for that act.

13 Q. And then it's -- it's you that proposes, "Here's what I do,
14 I'll come back, you get those two phones and the money together,
15 I'll come back up, meet with you, that's the last time we're
16 going to meet until after."

17 A. Correct.

18 Q. Okay. And when you say "I'll come back up, meet with you,"
19 at that point in the conversation when did you think you were
20 going to be coming back up?

21 A. The -- at the point when he was able to get the money to
22 follow through on -- on what he had proposed.

23 Q. And you say, "And you just take your time getting the other
24 half because it's going to be" -- and Mr. Maldonado says, "I'll
25 just sell a bunch of tigers." And then he reiterates, "sell a

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1 bunch of tigers." What did you think that selling tigers had to
2 do with anything?

3 A. That he would make the money that he was going to give me to
4 commit the murder by selling tigers that were presently at his
5 business.

6 Q. Okay. Later in the conversation Mr. Maldonado and -- is
7 talking and he says, "It's so bad right now, we had two customers
8 all week." And you say, "Is that right? I imagine this is slow
9 season." And he goes on and says, "Well, you know, we're
10 fighting football and we're -- just got done fighting the state
11 fair in Oklahoma City and the state fair in Dallas."

12 What was your understanding of what all that meant?

13 A. That these events were drawing people who might otherwise --
14 might otherwise go to his business to those events, so they were
15 spending their time doing those things rather than attending the
16 park.

17 Q. Did you understand whether that had a financial impact on
18 the park?

19 A. Yes, ma'am, it did.

20 Q. It just got blurry all of a sudden.

21 MS. DAVIS: You switched the auto focus off.

22 Q. (By Ms. Maxfield-Green) Okay. Mr. Maldonado, later in the
23 conversation, says, "If we can hold 60 degree weather, it will be
24 all right, but I got this -- this lady is supposed to be telling
25 me today whether or not they're going to buy this tiger or not.

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MARK WILLIAMS - Direct by Ms. Maxfield-Green

1 There's some guy in Florida that buys a bunch of fucking babies."

2 What did you understand the significance of that to be?

3 A. He's just talking about the business and the -- I understood
4 the 60 -- if we can hold 60 degree weather, that would be more
5 attractive to potential patrons, and then talking about selling
6 some of the wildlife there.

7 Q. And what did you understand the effect of being able to sell
8 some wildlife to be?

9 A. Raising money.

10 Q. Raising money for what?

11 A. The murder for hire.

12 Q. Okay. So it's Mr. Garretson that says, "So what do you
13 think works, first of the week?" And you say, "Probably towards
14 the end of the week." And you say, "I have got something else
15 going." And Mr. Maldonado says, "Yeah, yeah. I mean, it doesn't
16 have to happen tomorrow or within a week. I put up with this
17 bitch since 2006."

18 What was your understanding of Mr. Maldonado's -- what was
19 he suggesting?

20 A. That the scheduling of our next meeting didn't have to occur
21 immediately following this meeting, but it could be -- he didn't
22 mind waiting for a period of time.

23 Q. All right. And then Mr. Maldonado says, "All right, man. I
24 will, uh, I'll get ahold of James Monday." You say, "Yeah.
25 Yeah, let him know." And he says, "Let all this money come in

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1 over the weekend."

2 What was your understanding of that portion of the
3 conversation?

4 A. That he was going to get in touch with the CHS on Monday
5 regarding the potential payment or potential next meeting, and
6 that -- that patrons would visit the park over the weekend so
7 that they would have money.

8 Q. All right. And now you suggest, "And I'll tell you what, if
9 you can get a -- if you can get a clean pistol, something that
10 doesn't have your name on it." And that's something that you
11 suggest. Was there a strategy to that?

12 A. It's in keeping with the idea that I'm there to commit a
13 murder for hire on his behalf.

14 Q. And he says, "Where the hell? At the flea market down here
15 in Sulphur, you know, fuck that, I'll get a pistol at the flea
16 market."

17 What was your understanding of what the pistol was going to
18 be for?

19 A. The murder, the murder of Ms. Baskin.

20 Q. A few seconds later Mr. Maldonado says, "But aren't they
21 going to be, like, registered to Oklahoma?" What is his concern,
22 to your understanding?

23 A. That the gun would be traceable back to him.

24 Q. All right. Mr. Williams, so when you -- shortly after those
25 last lines, did you depart the zoo with Mr. Garretson?

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MARK WILLIAMS - Cross by Mr. Wackenheim

1 A. Yes, ma'am, we did.

2 Q. When you left that meeting, what was your understanding of
3 what had just occurred?

4 MR. WACKENHEIM: Objection, Your Honor. I think the
5 transcript and the recording speaks for itself.

6 THE COURT: Sustained.

7 Q. (By Ms. Maxfield-Green) Now, at any time during that
8 meeting did you give Mr. Passage any of your contact information
9 so that he could get ahold of you directly?

10 A. I did not.

11 Q. So how was he supposed to get ahold of you?

12 A. Through the -- the confidential witness.

13 Q. James Garretson?

14 A. Yes, ma'am.

15 Q. And did you ever meet Mr. Passage again?

16 A. No, ma'am.

17 Q. Did he or anyone on his behalf ever provide you with any
18 money?

19 A. No, ma'am.

20 MS. MAXFIELD-GREEN: Pass the witness.

21 THE COURT: Cross-examination?

22 **CROSS-EXAMINATION**

23 **BY MR. WACKENHEIM:**

24 Q. Agent Williams, just for the record, can you describe your
25 facial hair?

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MARK WILLIAMS - Cross by Mr. Wackenheim

1 A. Can I describe my facial hair, sir?

2 Q. Yes, please.

3 A. Yes, sir. It's a long beard.

4 Q. How long is long?

5 MS. MAXFIELD-GREEN: Your Honor, we object. Can we
6 approach?

7 THE COURT: You may.

8 (The following proceedings were had at the bench and out of
9 the hearing of the jury.)

10 THE COURT: What's the relevance here?

11 MR. WACKENHEIM: The relevance is I would like to have
12 him compare his physical description today as it was on
13 December 8th, 2017.

14 THE COURT: To what end?

15 MR. WACKENHEIM: It's our position that Mr. Passage
16 felt intimidated during this meeting with the undercover agent
17 and was less likely to speak in a manner consistent with what's
18 been alleged in the indictment.

19 THE COURT: What would the length of his beard have to
20 do with whether or not he was intimidated?

21 MR. WACKENHEIM: That may -- that particular question,
22 I suppose I could withdraw. And if necessary, we can make the
23 record here outside -- and then ask to seal it, but I think it's
24 important for the -- -

25 THE COURT: I'm still struggling with where you're

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1 going. Is it your position to try to elicit testimony from the
2 witness that he had a more intimidating appearance at the time?

3 MR. WACKENHEIM: Yes, that his appearance was a factor
4 in the nature of the conversation that occurred on December 8,
5 2017.

6 THE COURT: I think you can ask him what his appearance
7 was as -- if he had any sense that his appearance intimidated
8 Mr. Passage, but --

9 MR. WACKENHEIM: Okay.

10 THE COURT: I think going into the description of his
11 appearance is really treading into precisely what we were trying
12 to avoid here in terms of compromising his safety, but I'm okay
13 if you -- if there was a -- I just don't understand what the
14 point is other than the conclusion that there was some notion
15 that his appearance was intimidating to Mr. Passage.

16 MR. WACKENHEIM: Well, certainly, Your Honor, I can
17 move on. I can move on, Your Honor.

18 THE COURT: Okay. Thank you.

19 MS. MAXFIELD-GREEN: And, Your Honor, just for the
20 record, the Government makes a specific objection to any attempt
21 to create a written -- a transcript, essentially, of a
22 description of the witness's appearance. This is precisely what
23 we're trying to avoid. The transcript is -- will become publicly
24 available at some point and that's exactly what we're trying to
25 avoid. And I think that if Mr. -- if what they're trying to

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1 establish is that Mr. Passage was intimidated by him, then
2 Mr. Passage needs to testify to that effect.

3 MR. WACKENHEIM: May I -- may I inquire did you appear
4 similar to how you appear today, on December 8th, 2017?

5 THE COURT: What does an answer one way or the other,
6 how does that advance your notion that he may have been
7 intimidated? If he says yes, I mean, regardless of what he
8 describes how he looked, I mean, you would still -- you're still
9 ultimately going to have to establish -- I mean, he's obviously
10 never going to say that, oh, I was way more intimidating when you
11 ask him your question. But regardless of his answer, I still
12 don't understand where that gets you because only -- and
13 certainly, absolutely, Mr. Passage obviously doesn't have to say
14 a word, but I don't know who can establish that he was
15 intimidated unless Mr. Passage told somebody he was intimidated.

16 MR. WACKENHEIM: I'll move on, Your Honor.

17 THE COURT: Thank you.

18 (The following record was made in open court, in the
19 presence of all parties, counsel, and in the presence and hearing
20 of the jury.)

21 Q. (By Mr. Wackenheim) Agent Williams, you've testified that
22 you have received both regular special agent training at the FBI?

23 A. Correct. Yes, sir, I attended the FBI academy.

24 Q. And the undercover training?

25 A. That's correct, yes, sir.

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MARK WILLIAMS - Cross by Mr. Wackenheim

1 Q. How much of that training was specialized for a murder for
2 hire investigation?

3 A. It's certainly something that is covered during the -- the
4 certification process, but I couldn't quantify, you know, whether
5 it's 10 percent or 20 percent. It's -- it falls within the --
6 what I would call the general criminal training that we received
7 during that certification course.

8 Q. If I understand correctly, you had no direct contact with
9 Mr. Passage, correct?

10 A. Other than the meeting, you mean, sir?

11 Q. Yeah, in arranging the meeting of December 8th.

12 A. That's correct.

13 Q. Were you aware of the efforts that were being made to
14 arrange that meeting?

15 A. I was aware a meeting was being arranged, but beyond that,
16 no, sir.

17 Q. Well, did you have to consult your calendar for when you
18 would be available for the meeting?

19 A. I'm sure that I did.

20 Q. Were you the only agent that was available to fill the role
21 of the undercover?

22 A. There's a number of certified undercovers within the FBI.

23 Q. So the question is: In this investigation of Mr. Passage,
24 to fill the role of an undercover, was it just you that was being
25 consulted for your availability?

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1 A. As far as I know, yes, sir.

2 Q. And, to your knowledge, it was the confidential human source
3 that was responsible for arranging this meeting with Mr. Passage?

4 A. That's my understanding. My understanding was that he was
5 coordinating the meeting, yes, sir.

6 Q. Now, at that December 8th, 2017, meeting, do you remember
7 what you were wearing?

8 A. A shirt and jeans, a pair of boots.

9 Q. And we heard the audio and it was a substantially long
10 audio. Is that fair to say?

11 A. Actually, in my experience, no, that's probably one of the
12 shorter tapes I have made.

13 Q. So that's a pretty quick interaction?

14 A. Again, it's all relative, but yes.

15 Q. And were you -- well, where did the meeting take place?

16 A. Mr. Passage's business location in Wynnewood.

17 Q. And it sounded as if you and Mr. Garretson and Mr. Passage
18 were moving about the zoo; is that fair?

19 A. I believe we -- we showed up in the front area where we were
20 met by the defendant and then we went to a back office area.

21 Q. Can you describe that office area?

22 A. There were papers, I believe some computer equipment, desks,
23 chairs, that type of thing, a skunk.

24 Q. Was it cluttered?

25 A. Yes, sir.

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MARK WILLIAMS - Cross by Mr. Wackenheim

- 1 Q. Was it sort of confined?
- 2 A. Not particularly, no, sir.
- 3 Q. How many chairs were there?
- 4 A. I couldn't say.
- 5 Q. What was the arrangement of where you were seated versus
- 6 Mr. Garretson and Mr. Passage?
- 7 A. The three of us were seated in a triangular-shaped
- 8 configuration. I was maybe 4 feet from both of them,
- 9 approximately.
- 10 Q. Were you sitting at a table or a desk?
- 11 A. We -- either sitting or standing around a desk, yes, sir.
- 12 Q. When you walked through the park to get to the office, did
- 13 other park employees see you?
- 14 A. Yes, sir.
- 15 Q. Did you know if any members of the public saw you?
- 16 A. I don't know one way or the other, sir.
- 17 Q. Okay. And portions of the conversation, did those occur in
- 18 the presence of others, not just Mr. Garretson and Mr. Passage?
- 19 A. When you say "portions of the conversation," what are you
- 20 referring to, sir?
- 21 Q. The 47-minute long recorded transcript, did portions of that
- 22 conversation occur in the presence of others?
- 23 A. Yes.
- 24 Q. Do you remember how many other people?
- 25 A. I would say at least two for fairly brief periods of time.

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MARK WILLIAMS - Cross by Mr. Wackenheim

- 1 Q. And it's been recorded, correct?
- 2 A. The meeting was recorded, yes, sir.
- 3 Q. And so was there anything outside of that recording that's
- 4 important for your role in this murder for hire investigation?
- 5 A. I'm not sure I understand your question, sir.
- 6 Q. Well, did you -- after this recording was finished, did you
- 7 go back into the trailer or to the office to speak to
- 8 Mr. Passage?
- 9 A. No, sir. No, sir.
- 10 Q. So anything of substance involving your communications with
- 11 Mr. Passage are on that recording?
- 12 A. That's fair, yes, sir.
- 13 Q. Showing you what's been admitted for demonstrative purposes
- 14 Government's Exhibit 63-A. And you have gone over this quite a
- 15 bit, but right here where it says "CI Mr. Garretson," is this
- 16 where he introduces you to Mr. Passage?
- 17 A. Yes, sir, it is.
- 18 Q. And so you exchange pleasantries at that moment?
- 19 A. Yes, sir.
- 20 Q. And so the conversation then turns to Vegas buddies. Did
- 21 you understand who that was?
- 22 A. Not particularly. My understanding was the defendant had a
- 23 business associate who was located in Las Vegas.
- 24 Q. Did you have any understanding of how Mr. Passage mentioned
- 25 trying to get his animals back? Did you know what that meant?

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MARK WILLIAMS - Cross by Mr. Wackenheim

1 A. No, sir.

2 Q. Well, the conversation about those animals lasted for a few
3 minutes, correct?

4 A. Yes, sir.

5 Q. And then do you remember who turned the topic to Ms. Baskin?

6 A. I -- so I believe Mr. -- Mr. Garretson makes reference to
7 the fact that I have spent time in Florida, and then the
8 defendant begins to tell me about his problems with Ms. Baskin.

9 Q. Well, CI, that's Mr. Garretson, looks like he's describing a
10 child custody or some sort of domestic matter, correct?

11 A. That was my understanding, yes, sir.

12 Q. And then Mr. Maldonado shares his personal experience with
13 people he knows; yes?

14 A. Yes, sir.

15 Q. And then right here where the CI says, "Geeze, but, yeah, I
16 was just talk talk, I didn't -- I really haven't told Mark much,
17 but I just said that he's" -- and is that the point in the
18 conversation where your purpose is introduced or brought up?

19 A. That's the point of the conversation where we initially
20 begin discussing the defendant's issues with Ms. Baskin, yes,
21 sir.

22 Q. And that's Mr. Garretson bringing that up, correct?

23 A. He's telling him that I have spent time in Florida. Yes,
24 that's where the conversation went thereafter.

25 Q. And then Mr. Maldonado spends a good deal of time talking

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- 1 about his legal issues with Ms. Baskin?
- 2 A. Yes, sir.
- 3 Q. In fact, you probably learned more about Ms. Baskin then
4 than you probably cared to?
- 5 A. That's fair.
- 6 Q. Now, throughout the recording we hear laughter.
- 7 A. Yes, sir.
- 8 Q. And it seems like everyone was participating in that
9 laughter.
- 10 A. Yes, sir.
- 11 Q. Was Mr. Passage making jokes throughout this conversation?
- 12 A. Yes, sir.
- 13 Q. In fact, he's joking around about a serial killer in Tampa
14 area. Do you remember that part of it?
- 15 A. Yes, sir.
- 16 Q. After that joke has run its course, here Mr. Garretson says,
17 "Yeah, Mark's done some stuff for me and he's -- he's top notch,
18 he don't fuck around." Do you remember that part?
- 19 A. I do.
- 20 Q. And it's not true that you have ever done anything for
21 Mr. Garretson, correct?
- 22 A. Correct, I have never done anything for Mr. Garretson.
- 23 Q. So why is Mr. Garretson saying that?
- 24 A. To lend some credence to my bona fides, that I am somebody
25 who is capable of or willing to commit a murder for hire.

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MARK WILLIAMS - Cross by Mr. Wackenheim

1 Q. And turning the conversation back to that topic, correct?

2 A. No, I wouldn't agree with that, sir. I think the topic is
3 still on that. They're talking about the serial killer, and in
4 relation to the serial killer the issues with Ms. Baskin.

5 Q. And you say to him, "If it's not just talk, man, I'll do
6 it." Do you remember that?

7 A. Yes, sir.

8 Q. So what more did you need if it -- when you're saying
9 it's -- if it's not just talk, I'll do it?

10 A. I wanted him to -- to tell me about his level of commitment
11 to doing this.

12 Q. Which could include purchasing burner phones, correct?

13 A. Sure, yes, sir.

14 Q. Acquiring a pistol, correct?

15 A. Yes, sir.

16 Q. And none of those things were done?

17 A. To my knowledge, no, sir.

18 Q. You tell Mr. Maldonado, "What do I need for sure -- what I
19 would need for sure is enough to get me down there for a few days
20 because I wanna -- I need to know what -- who she is." So are
21 you asking Mr. Maldonado to provide you information on
22 Ms. Baskin?

23 A. No, sir. We're talking about how much money it would take
24 to commit this act and what I would require or what I would like
25 up front in terms of a down payment, if you will. And so I'm

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1 telling him what I would like is at least enough money to travel
2 down to Florida to conduct surveillance.

3 Q. So you need some money up front so you can spend the time
4 surveilling or -- or making him believe that's what you need to
5 do?

6 A. Correct.

7 Q. But at some point did you ask him for information on where
8 she lived?

9 A. I did.

10 Q. Did you get that information?

11 A. I don't specifically recall whether it was contained in the
12 information that we provided -- the information he did provide
13 me. I know he made statements along the lines of someone named
14 Jeff could provide information related to Ms. Baskin's address.

15 Q. And, in fact, didn't either you and Mr. Garretson ask
16 Mr. Passage to provide that information, or ask Jeff to provide
17 that information?

18 A. I think Mr. Garretson did, yes, sir.

19 Q. To your knowledge, was that information ever provided?

20 A. I don't know one way or the other, sir.

21 Q. Conversation rambled a bit. Is that fair to say?

22 A. It took the course of a natural conversation, I think, but
23 there were a number of topics discussed, yes.

24 Q. Correct. And the -- for example, politics gets discussed at
25 some point?

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MARK WILLIAMS - Cross by Mr. Wackenheim

- 1 A. Briefly, yes, sir.
- 2 Q. And that Mr. Passage is about to get married is also
3 discussed?
- 4 A. It was, yes, sir.
- 5 Q. And do you remember when he said he was going to get
6 married?
- 7 A. March -- or I believe the ceremony was in March, but he was
8 planning on getting married the following week, I believe.
- 9 Q. Referring back to the beginning part of the conversation,
10 "The big one's in March," this is Mr. Passage, "I'm getting
11 married Monday." Do you remember that?
- 12 A. Yes, sir.
- 13 Q. And this was Friday?
- 14 A. I believe so, yes, sir.
- 15 Q. So in a matter of three days he's getting married?
- 16 A. Yes, sir.
- 17 Q. When did he say he was going to try to get the money to you?
- 18 A. The following week.
- 19 Q. The Wednesday?
- 20 A. Yes, sir.
- 21 Q. And he's getting married on Monday.
- 22 So when Mr. Passage is done discussing the publicity of his
23 marriage, do you remember -- well, do you remember him talking
24 about his marriage being public?
- 25 A. I do.

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MARK WILLIAMS - Cross by Mr. Wackenheim

1 Q. And then do you remember that it was Mr. Garretson who
2 brought the conversation back to your role in all of this where
3 he says, "But we just -- just let him know, you got to start
4 sliding back to Florida pretty soon anyway, don't you?" And you
5 say, "Yeah, yeah."

6 A. We moved back to that topic, yes, sir.

7 Q. I think you also were specifically asked about this moment
8 right here when you asked Mr. Passage for "any information you
9 got on her." And can you -- since we don't have the video, can
10 you describe what happened at that point?

11 A. I can describe it to the best of my recollection. He walked
12 over to a storage area, or maybe a desk drawer, and pulled out a
13 number of documents and provided them to me, or set them down in
14 front of me.

15 Q. How many documents?

16 A. My recollection is a significant stack, you know, inches of
17 documents.

18 Q. A stack of folders; is that fair?

19 A. That's fair.

20 Q. So it was basically a sight gag dumping that stack of
21 material on the desk; is that fair?

22 A. No, I wouldn't agree with that characterization, sir.

23 Q. Well, did he laugh at the moment that he put that
24 information on the desk?

25 A. He did.

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MARK WILLIAMS - Cross by Mr. Wackenheim

1 Q. Again, you ask for specific details. You ask, "Where's --
2 where's the park?" And in response Mr. Maldonado continues to
3 talk about his disagreements and investigation of Ms. Baskin. Do
4 you see that?

5 A. Yep -- yes, sir. I believe at this point we're kind of
6 going through the documents together.

7 Q. And he's just disparaging her to you?

8 A. Yes.

9 Q. And he goes through the long history of his dispute?

10 A. He -- he got into some of the historical background, yes,
11 sir.

12 Q. Now, you testified about this statement about getting two
13 burner phones.

14 A. Yes, sir.

15 Q. And what was the purpose of suggesting that to Mr. Passage?

16 A. To convincingly portray myself as somebody who has the
17 knowledge of operational security, that would facilitate a
18 successful murder for hire.

19 Q. Your bona fides?

20 A. Yes, sir.

21 Q. Well, isn't another reason why you wanted him to do that is
22 that you are suggesting a concrete step which, if he had taken,
23 would have shown that he truly had the intent to solicit you to
24 commit the murder of Carole Baskin?

25 A. I would agree with you that that would be a concrete step,

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1 yes, sir.

2 Q. Which wasn't done, correct?

3 A. I think in that exchange he's suggesting that I go to
4 Walmart to secure them.

5 Q. Well, let's go to that.

6 In addition to the two cheap burner phones, you also
7 describe you want to be out in public, right?

8 A. Uh-huh.

9 Q. Is that --

10 A. Yes, sir.

11 Q. And then Mr. Passage says, "Think you can go to Walmart?"
12 Laugh. "Yeah, find a cheap -- you got a couple hours in
13 Walmart." Is it fair to say that Mr. Passage's reference to
14 Walmart was more about being in public as opposed to where you
15 could get phones?

16 A. That's not -- that was not my understanding at the time, nor
17 is it today.

18 Q. Do you recall the conversation turning to PETA and problems
19 with the park?

20 A. Yes, sir.

21 Q. Do you recall the conversation discussing problems that
22 other individuals are having with Ms. Baskin and PETA?

23 A. Yes, sir.

24 Q. Do you remember learning about Mr. Garretson's water
25 Buffalo?

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MARK WILLIAMS - Cross by Mr. Wackenheim

1 A. Yes, sir.

2 Q. But again, isn't it Mr. Garretson bringing the conversation
3 back with, "Yeah, just figure out when we wanna," and that brings
4 the conversation back to what you were there for? And I can show
5 the previous page if that helps.

6 A. No, that's fine. I recall. Yeah, that -- he says that and
7 we start talking about the details again.

8 Q. Do you remember this conversation about selling a lemur that
9 might be missing a hand or a finger?

10 A. I do.

11 Q. And then again it's Mr. Garretson bringing the conversation
12 back to, "So, what do you think works, first of the week?" And
13 you answer, "Probably towards the end of the week."

14 A. Sir, I -- I disagree with your characterization. There were
15 times we were going off on tangents, but it was all part of one
16 kind of ongoing conversation.

17 Q. Well, is it possible that those tangents was Mr. Passage
18 changing the subject and avoiding talking about you and your role
19 in his office on December 8th?

20 A. No, sir.

21 Q. I mean, he had forgotten your name later in the meeting,
22 correct?

23 A. That's what he said, yes. Yes, sir.

24 Q. And that's when Dillon walks in?

25 A. Correct.

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MARK WILLIAMS - Cross by Mr. Wackenheim

1 Q. He introduces you but has forgotten your name, right?

2 A. Correct.

3 Q. Do you remember the conversation where -- or the part of the
4 conversation where Mr. Passage and Mr. Garretson and you are
5 talking about individuals who have died of lung cancer?

6 A. Yes, sir.

7 Q. And Mr. Passage then mentions that he's soon to get married.
8 Do you remember that part?

9 A. I do.

10 Q. And then again it's Mr. Garretson who directs the
11 conversation back to your role in the office trailer on
12 December 8th where you -- when he says, "All right, man. I'll
13 text you next couple of days, but if I need to help you get those
14 tigers, let me know."

15 A. Again, sir, my sense of things during that conversation, and
16 again in reviewing the transcript, was that it was part of one
17 kind of long, ongoing conversation.

18 Q. Well, the recording speaks for itself and this is just to
19 help, but did you also mention getting a clean pistol?

20 A. Yes, sir.

21 Q. Okay. Before you mention the clean pistol, was it -- in
22 your mind, as an agent of the FBI, was it in your mind that your
23 investigation was complete, that your role, you have done what
24 you need to do, you have gotten him to say the things you need
25 him to say?

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MARK WILLIAMS - Cross by Mr. Wackenheim

1 A. I wasn't the case agent, sir. I wouldn't make that
2 judgment.

3 Q. So you're suggesting an additional concrete step which, if
4 taken, would further the investigation?

5 A. It would have been an additional concrete step, yes, sir.

6 Q. Which was not taken, correct?

7 A. To the best of my knowledge, no, sir.

8 Q. So the additional steps that were suggested during that
9 meeting; provide the money, correct?

10 A. Those were things that were brought up as things that would
11 need to or could happen prior to me committing the act.

12 Q. And what was the dollar amount again?

13 A. 5,000.

14 Q. Not 10,000?

15 A. No. That was Mr. Passage's suggestion. My -- my figure was
16 five.

17 Q. And then get two phones; that was another step suggested?

18 A. It was, yes.

19 Q. And get a pistol, correct?

20 A. Correct.

21 Q. And have maps sent, correct?

22 A. Information related to Ms. Baskin -- additional information
23 related to Ms. Baskin, yes, sir.

24 Q. But none of that was done, correct, or at least to your
25 knowledge?

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MARK WILLIAMS - Redirect by Ms. Maxfield-Green

1 A. To my knowledge, no, sir.

2 Q. Who would know if that was done?

3 A. I -- not me.

4 Q. The case agent?

5 A. Not me.

6 Q. Well, in your training and experience, who's responsible for
7 knowing if those steps in the investigation have been completed?

8 A. Generally the case agent -- that would be something the
9 case agent would know, sure.

10 MR. WACKENHEIM: May I have a moment, Your Honor?

11 THE COURT: You may.

12 MR. WACKENHEIM: Thank you, Agent.

13 THE COURT: Pass the witness, Mr. Wackenheim?

14 MR. WACKENHEIM: Yes, Your Honor.

15 THE COURT: Redirect?

16 MS. MAXFIELD-GREEN: Briefly, Your Honor.

17 **REDIRECT EXAMINATION**

18 **BY MS. MAXFIELD-GREEN:**

19 Q. Mr. Williams, Mr. Wackenheim asked you about the portion of
20 the conversation in which Mr. Passage had brought out a stack of
21 papers and set it in front of you. Do you recall that?

22 A. I do.

23 Q. And after that point in the conversation, you're looking at
24 some papers with him, correct?

25 A. Yes, ma'am.

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MARK WILLIAMS - Redirect by Ms. Maxfield-Green

1 Q. And you say, "What's that? What's that?" And Mr. Maldonado
2 says, "That's her address. That's the address of Big Cat.

3 That's where the park is now." And you say, "Okay. All right."

4 Does that refresh your recollection about what was happening
5 at that moment?

6 A. Yes, ma'am. We're looking through the documents that he
7 provided.

8 Q. So does -- is he specifically pointing out to you the
9 address of Big Cat Rescue, Ms. Baskin's business location?

10 A. Yes, ma'am.

11 Q. All right. Later in the conversation you say, "That's" --
12 let's see -- "That's the other thing I wanted to ask you about,
13 anybody else know about this?" And Mr. Maldonado says, "Nope,
14 nope," another nope. And then Mr. Garretson chimes in and says,
15 "We had that other guy, but he was just a fucking flake." And
16 you say, "Yeah, you told me about that." And Mr. Garretson says,
17 "Alcohol, he had alcohol, everybody starts talking when
18 they're" -- and Mr. Maldonado chimes in and says, "Pain pills
19 too, bad pain pills." And he reiterates again, "Bad pain pills."
20 Did you know what they were talking about?

21 A. Yes, ma'am. The -- the defendant had previously hired
22 someone else to commit a murder for hire related to Ms. Baskin
23 and that that person had been unsuccessful for the reasons
24 they're stating.

25 MS. MAXFIELD-GREEN: No further questions, Your Honor.

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1 THE COURT: Anything further, Mr. Wackenheim?

2 MR. WACKENHEIM: No, Your Honor.

3 THE COURT: Thank you, Agent. You may step down.

4 THE WITNESS: Thank you, Your Honor.

5 THE COURT: Ladies and gentlemen of the jury, we are at
6 our evening break. We will adjourn until tomorrow morning. Same
7 time, we'll be ready to go at 9 o'clock.

8 Same admonition applies: Be very careful, guard yourself
9 against seeing anything on the news or reading anything online or
10 anything like that. You're not to discuss the case amongst
11 yourselves or with anybody else, or let anybody discuss it with
12 you. That being said, we will see you tomorrow morning.

13 Please remain seated while the jury leaves the courtroom.

14 (Jury exited.)

15 (The following record was made in open court, in the
16 presence of all parties, counsel, and out of the presence and
17 hearing of the jury.)

18 THE COURT: Ms. Green, I'm not -- I don't know that --
19 I'm not going to ask the Government to make any announcement at
20 this point in time, but do you anticipate any additional
21 witnesses?

22 MS. MAXFIELD-GREEN: We do not, Your Honor.

23 THE COURT: Mr. Earley, it's my understanding, at least
24 at this point in time, you plan to call at least one witness and
25 they're tomorrow morning at 9:00?

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1 MR. EARLEY: Yes. And possibly another witness, yes.

2 THE COURT: Possibly another -- yeah, and I'm not
3 asking you how many, I just -- for scheduling purposes, you
4 intend to make some presentation at 9:00.

5 I'm trying to think of -- I expect that you want to make a
6 record after the Government announces rest?

7 MR. EARLEY: Yes. And I would like to check to make
8 sure that, you know how the Circuits are, that there's nothing
9 waived, but we could perhaps just make a motion for a judgment of
10 acquittal and have the Court state that you'll entertain argument
11 after we recess. That might take care of --

12 THE COURT: That was going to be my suggestion rather
13 than us get up, Government announce rest, and I put the jury back
14 on ice while we do that. If I permit you to make that motion and
15 we will reserve that -- I want to give you every opportunity to
16 preserve any record you need to preserve, and I think the -- I
17 think it permits me to consider that during the recess.

18 The -- one other thought came to mind. I think also in
19 light of those announcements in terms of the timing, the other
20 witness you're potentially calling will be Monday morning,
21 correct, in terms of travel arrangements?

22 MR. EARLEY: Yes.

23 THE COURT: So in that case, I -- would you -- would
24 the parties agree, I don't think there's any need for us to have
25 jury instruction conference this evening. Perhaps we do that

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1 tomorrow?

2 MS. MAXFIELD-GREEN: That works for the Government,
3 Your Honor.

4 THE COURT: Is that satisfactory, Mr. Earley?

5 MR. EARLEY: Yes. I think we'll have more time to do
6 it then, yes.

7 THE COURT: Sure. Anything else from either party?

8 MS. MAXFIELD-GREEN: No, Your Honor.

9 MR. EARLEY: No, Your Honor.

10 THE COURT: Court will be in recess.

11 (Court adjourned.)

12 REPORTER'S CERTIFICATION

13 I, Emily Eakle, Federal Official Realtime Court
14 Reporter, in and for the United States District Court for the
15 Western District of Oklahoma, do hereby certify that pursuant to
16 Section 753, Title 28, United States Code that the foregoing is a
17 true and correct transcript of the stenographically reported
18 proceedings held in the above-entitled matter and that the
19 transcript page format is in conformance with the regulations of
20 the Judicial Conference of the United States.

21 Dated this 6th day of March 2020.

22

23

24

25

/S/ Emily Eakle
EMILY EAKLE, RMR, CRR
Federal Official Court Reporter

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