

1 be one matter and I'll be able to have the answer
2 to that by 5 o'clock.

3 THE COURT: If I can have the State's
4 representative to let Mr. Davis know to stay in the
5 courthouse right now, to just stay in the
6 courthouse right now. Officer Davis, right around
7 this way.

8 ALFRED DAVIS,
9 after having been first duly sworn, was
10 examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MS. RICH:

13 Q. Tell us your full name, please, sir.

14 A. Alfred Davis.

15 Q. And Mr. Davis, you're retired; are you not?

16 A. That's correct.

17 Q. And where are you retired from?

18 A. Mobile Police Department.

19 Q. And how long did you work for the Mobile Police
20 Department?

21 A. 30 years and one month.

22 Q. And where did you start at the police department?

23 A. In Patrol Division.

24 Q. What other areas did you work at the Mobile Police
25 Department?

1 A. Patrol division, in 1991, I was assigned to
2 Narcotics and Vice. Then in 1998, I was assigned
3 to Internal Affairs. In 2004, I was assigned to
4 Assaults and Sex Crimes, and then in 2008 back to
5 patrol. And in 2011, Juvenile, and then in 2013,
6 back to Patrol Division.

7 Q. What was your rank when you retired from the police
8 department?

9 A. Rank of Lieutenant.

10 Q. And tell us the ranks before lieutenant.

11 A. The first is Patrol Officer PL-1. The second is
12 Corporal, third is Sergeant, then Lieutenant, and
13 then there's the Captain, the Major, Deputy Chief
14 and Chief.

15 Q. At any point did you ever work as a detective?

16 A. Yes, I did.

17 Q. When was that?

18 A. In Narcotics and Vice.

19 Q. And also in Assaults and Sex Crimes?

20 A. That's correct.

21 Q. Any other areas?

22 A. And Juvenile, yes.

23 Q. Now, how are you related to Christopher Davis?

24 A. He's my nephew by way of my -- he's my sister's
25 son.

1 Q. And do you know how old he is?

2 A. I think he's 25.

3 Q. And his friend is here with him today; did you know
4 his friend, Harry Matthews?

5 A. Not prior to these proceedings.

6 Q. And at some point did you become aware that the
7 Mobile Police Department wanted to speak with
8 Christopher Davis?

9 A. I did.

10 Q. What did you do?

11 A. I think it was a couple of days after this accident
12 occurred. Christopher called me because he was
13 concerned that the police were attempting to
14 contact him, and he didn't understand why and they
15 wanted to question him regarding this accident.

16 Q. Okay. Now, as part of your experience in the
17 Mobile Police Department and specifically in your
18 years in patrol, did you have occasion to
19 investigate traffic crashes?

20 A. I did.

21 Q. How many traffic crashes do you think you would
22 have investigated in your career?

23 A. Gosh, in patrol, I would say probably hundreds.

24 Q. And you assisted in patrol of the case. Would not
25 be taken care of by patrol, the traffic crash

1 wouldn't be taken care of by patrol, would you
2 often times assist traffic homicide investigators?

3 A. No. I think I've done that once or twice, yes.

4 Q. So, what did you tell your nephew in regards to the
5 police wanting to make a statement?

6 A. Christopher first told me that he kept getting
7 calls from an officer, and he said the name but
8 even to this day I cannot remember name. But I
9 told him an officer, it's unusual, this was a
10 fatality --

11 MR. JAFFE: We object to -- beyond the scope
12 and the narration. Specific question --

13 THE COURT: Break it up if you would, just Q
14 and A for me.

15 Q. All right. So when Christopher told you that the
16 police were looking for him to question him about a
17 traffic crash, what did you say to him and what did
18 you do?

19 A. He asked me if I was familiar with what occurred.
20 He described that accident to me. I saw it on the
21 news. And I told him, whatever you do, if you were
22 a witness to it, don't talk to anyone by telephone
23 because it involves a fatality and it's very
24 serious.

25 Q. Okay.

1 A. A verbal statement is.

2 Q. So you told him not to give a statement by the
3 phone?

4 A. That's correct.

5 Q. So what type of statement did you tell him to give?

6 A. I'm familiar with the documents at the police
7 department --

8 MR. JAFFE: Object to the question. It's not
9 responsive. She said what did you tell him to do.

10 THE COURT: Just answer the question, Officer.

11 Q. What did you tell him to do with regard to what
12 type of statement to give?

13 A. I told him to provide a written statement.

14 Q. And why did you tell him that?

15 MR. JAFFE: Object to why he told them that.

16 THE COURT: Overruled.

17 Q. Why did you tell him that?

18 A. Because it's very important that a written
19 statement in a way of a fatality, especially with
20 any accident -- if I may, I can go into a little
21 history about written statements and --

22 MS. RICH: You can.

23 MR. JAFFE: Objection.

24 Q. Does that show why you asked him --

25 THE COURT: Wait a minute. What's your

1 objection?

2 MR. JAFFE: Objection to him going into a
3 history of written statements as not being relevant
4 and beyond the scope of his testimony.

5 THE COURT: Overruled. Go ahead.

6 Q. You can answer, sir.

7 A. Okay. When I started with the police department in
8 the patrol division and I was assigned there in
9 1986, and it was frequent that I got several calls
10 as accidents. And so we took notes -- we would
11 interview the drivers. And some of you may
12 remember, you'd see a police officer with a little
13 note pad in his pocket that he would take notes.
14 He took verbal statements from the witnesses and
15 the drivers, the involved parties.

16 But what would occur, and it happened to me
17 once or twice, is that once these accidents got in
18 the hands of insurance companies or there was some
19 litigation, there was a dispute that the driver
20 would say that's not what I told the officer.

21 Okay. Now, around 1990 when Chief Harold
22 Johnson came here, in order to resolve this issue,
23 they printed up a document called the Traffic
24 Accident Driver Witness Statement. That's a very
25 important form. So what we started doing after that

1 is once we arrived at the scene of an accident, we
2 would issue those to whatever involved parties and
3 then any witnesses if they were available.

4 So when I told my nephew this, I told him you
5 know there's a document that you need to fill out
6 and describe what you saw. So I said make an
7 appointment with the officer the next time he calls
8 you and then go there and get a copy of that
9 document and fill it out.

10 Q. And did he do that? Did you go with him?

11 A. I did. Okay. He couldn't remember what the
12 document was called --

13 MR. JAFFE: I object. It's beyond the scope.

14 THE COURT: Yes. Just wait for a question.

15 Q. Did you go with him and where did you go?

16 A. I did. I took him in my truck. We went to the
17 precinct located in the Municipal Park because I
18 know that that's where the Traffic Division is
19 located, so I took him there to get that form.

20 Q. I'm showing you now what's been marked and admitted
21 as State's Exhibit Number 190. Is that the form
22 you're referencing?

23 A. Yes, it is.

24 Q. Okay. And did you witness him fill out this form?

25 A. No, I didn't.

1 Q. But were you present when the form was turned in?

2 A. I did. I took it -- I'm the one who delivered it
3 back to the precinct to the officer.

4 Q. Okay. Do you know whether or not you advised him
5 regarding an oral statement or a statement that he
6 would have just said?

7 A. I don't understand your question.

8 Q. There's two different types of statements. There's
9 a written statement and then there's an oral
10 statement where there's a question and answer
11 session.

12 A. Yes. I advised him to put it in writing, the
13 written statement that you just showed me in
14 evidence.

15 Q. Did you advise him not to give an oral statement?

16 A. I did.

17 Q. And why did you do that?

18 A. Because I told him that prior to him filling out
19 the statement --

20 MR. JAFFE: Object. Not what he told him, the
21 question was did you advise him.

22 THE COURT: I thought she did ask what he
23 told him.

24 MR. JAFFE: I didn't hear that, Judge.

25 THE COURT: Overruled. Go ahead.

1 A. Prior to him writing the statement, I advised him
2 not to provide a verbal statement, then I did the
3 same thing after he provided the written statement.

4 Q. What did you tell him?

5 A. Okay. I told him write down exactly, once we got
6 the form, exactly everything you recall about that
7 incident that night, good, bad, indifferent, you're
8 not involved. I advised him his vehicle didn't
9 have any contact with that vehicle, so he's not
10 involved and he has nothing to worry about --

11 MR. JAFFE: Judge, I'd ask that the jury
12 exclude --

13 THE COURT: Sustained. Ladies and gentlemen,
14 you're not to consider and will disregard any
15 comments by the witness as to who is at fault in
16 the accident. That is your decision, ultimately.

17 Q. When you advised him to make the written statement,
18 did he do so?

19 A. He did.

20 Q. And you turned it back in?

21 A. I did.

22 Q. Did you have any other involvement in this case?

23 A. No, that was it.

24 MS. RICH: Pass the witness.

25 THE COURT: Cross-Examination, Mr. Jaffe.

1 MR. JAFFE: Yes, Your Honor. Thank you very
2 much. Judge, could I get a little clarification on
3 something? Is State's Exhibit 190, the written
4 statement that was read by his nephew?

5 THE COURT: I don't know. Was it?

6 THE REPORTER: It was, yes, sir.

7 MR. JAFFE: Is it offered into evidence?

8 THE COURT: It's in evidence.

9 MR. JAFFE: It is in?

10 THE COURT: Yes.

11 MR. JAFFE: Thank you, Judge.

12 CROSS-EXAMINATION

13 BY MR. JAFFE:

14 Q. Good afternoon.

15 A. Good afternoon.

16 Q. I want to go over a few things. Now, your sister
17 is Christopher Davis's mother?

18 A. That's correct.

19 Q. And was he living with his mom at the time of the
20 accident?

21 A. I believe he was, yes.

22 Q. And were his fiancé and child living there too?

23 A. I think they were.

24 Q. So they were all living together at your sister's
25 house?

1 A. Yes, at my sister's house.

2 Q. That's what I was asking you. You talked about
3 when you were in the police department you had
4 investigated traffic collisions, including
5 fatalities?

6 A. Not including fatalities. A fatality is an --

7 Q. It's just --

8 MS. RICH: Judge, he can explain.

9 THE COURT: Let him answer. You cut him off.
10 Go ahead. I know it's not purposeful but it
11 happens. You can finish. All right. Go ahead.

12 A. The fatalities are investigated by we, for short,
13 call a TAI, that's Traffic Accident Investigator.
14 I have assisted with that but not involved
15 directly.

16 Q. Thank you, sir. So you've assisted in those
17 investigations?

18 A. Yes, sir.

19 Q. Now, it's very important in any investigation,
20 especially one involving a fatality, to get to the
21 truth?

22 A. That's correct.

23 Q. And that's the whole point of everything, isn't it?

24 A. It is.

25 Q. Okay. Now, your position is that Chris and you

1 fully cooperated with Detective McCullough,
2 correct?

3 A. That's correct.

4 Q. We'll come back to that in just a minute. Do you
5 remember when Chris contacted you stating that he
6 was concerned?

7 A. I think it was on August 3rd.

8 Q. Okay. And was that by telephone?

9 A. It was.

10 Q. And was it on that day that you physically saw him
11 or discussed with him his concern?

12 A. Physically saw who?

13 Q. I'm sorry?

14 A. Physically saw who?

15 Q. Christopher Davis.

16 A. No, sir.

17 Q. So if it was on the 3rd, by then, you knew it was a
18 fatality, right?

19 A. I heard about it the following day that it
20 occurred, and I'm not certain on that date. It
21 could've been the 2nd or the 3rd, I'm not certain
22 what day, but it was right in that timeframe. The
23 day we met with the officer was on the 5th.

24 Q. Right.

25 A. So it was right prior to those times.

1 Q. Right. We'll get to the 5th. Right now I'm on the
2 few days before that. Your best estimate was it
3 was on the 3rd?

4 A. Yes.

5 Q. And you knew on the 3rd because it was all over Fox
6 News and whatever, you knew it was a fatality then,
7 didn't you?

8 A. That's correct.

9 Q. And you discussed it with Chris, he expressed his
10 concern to you?

11 A. What he discussed with me was why are the police
12 calling him, he doesn't know why they were calling
13 him.

14 Q. Did you call the Police Department to find out?

15 A. I did not.

16 Q. You knew they were looking to speak with him,
17 correct?

18 A. I didn't know that because I don't know who was
19 calling him.

20 Q. But eventually -- well, what made you go down there
21 on the 5th?

22 A. Because I told Christopher if this person calls you
23 again, you will meet with him in person and provide
24 a written statement. I said, the next time he
25 calls you, set up an appointment, because he told

1 me at one time this person called him at 8 o'clock
2 at night and said do not call the precinct, call my
3 personal phone. I found that was a little odd.

4 Q. Did Detective McCullough actually call Chris again,
5 to your knowledge, on the 5th?

6 A. Not on the 5th. The 5th is when we met with him.
7 It was prior to the 5th.

8 Q. Well, it if was prior to the 5th, why didn't you go
9 down there right away?

10 A. Because that was on the 4th and they made the
11 appointment for the 5th.

12 Q. Okay. And when you went down on the 5th, you knew
13 there was a form called Witness Statement?

14 A. Yes, sir.

15 Q. And you decided, based on what you were told by
16 Chris, that well, he's just a witness, right?

17 A. Yes.

18 Q. Okay. So when you got there, did you have an
19 opportunity to speak with Detective McCullough?

20 A. I did.

21 Q. And Detective McCullough wanted to interview,
22 orally interview Chris, correct?

23 A. That's correct.

24 Q. But you stated, in no uncertain terms, that wasn't
25 going to happen, correct?

1 A. I would've stopped him prior to him interviewing
2 him verbally.

3 Q. Yes. And you talked about the history of these
4 witness forms and among other things you said,
5 well, if it became an insurance case, if it became
6 something like that, there might be a dispute about
7 what was said; if it was in writing, there would be
8 no dispute?

9 A. That's correct.

10 Q. All right. I just want to make sure I heard you
11 and the jury heard that, correct?

12 A. That's right.

13 Q. But that could be cleared up pretty easily, right?
14 If there was a recording of the oral statement,
15 then there wouldn't be a dispute about what was
16 said, correct?

17 A. That's possible, yes.

18 Q. Well, it's probable, isn't it?

19 A. It's probable.

20 Q. I will even go further. It's certain that if it's
21 on a recorded statement and the recording can be
22 cleared, then there won't be a dispute about what's
23 said, correct?

24 A. Well, we also know that recordings can be edited.

25 Q. You wouldn't think that Detective McCullough would

1 edit a recording that he did, would you?

2 A. I didn't know he had a recording.

3 Q. We're going to get to that too.

4 A. Okay.

5 Q. And speaking of that, have you seen any videos of
6 you, Chris and Detective McCullough?

7 A. No, I haven't.

8 Q. Are you aware that one exist?

9 A. No, I'm not.

10 Q. In any event, I want to go back to my question is
11 if Detective McCullough recorded your nephew, then
12 that would alleviate any issues about a possible
13 dispute later, correct?

14 A. Yes.

15 Q. Now, did you say to Officer McCullough, my concern
16 is I want to make sure you get the truth and the
17 whole truth; so if you record the statement, I'll
18 be comfortable with that? Did you offer that to
19 him?

20 A. No, I did not.

21 Q. The statement, I think it's Exhibit 190 that was
22 just read to the jury; do you know where that was
23 written?

24 A. At his residence.

25 Q. So take us through what happened. You went down to

1 the police station and you asked for this form?

2 A. I did at the front desk but they denied it.

3 Q. They wouldn't let you have it?

4 A. No.

5 Q. Did you tell them that you're a lieutenant, former?

6 A. I did not identify myself as such.

7 Q. Who gave you the form?

8 A. Officer McCullough.

9 Q. All right.

10 A. He didn't give it to me, he gave it to Christopher.

11 Q. And when did you -- when did he fill it out and
12 where?

13 A. After we left the precinct, I took him back to his
14 residence where he was comfortable to fill it out
15 and I advised him to put down everything and I
16 left.

17 Q. Did you come and pick him back up?

18 A. I didn't pick him back up, but I did come back. I
19 told him once he finished, to call me, I would pick
20 him up and we would return it back to the precinct.
21 However, I decided after our conversation with
22 McCullough, to deliver it myself without him.

23 Q. So you actually didn't even take him with you back
24 down to the police station?

25 A. That's correct.

1 Q. You just delivered the statement that was written
2 and you left?

3 A. That's right.

4 Q. And you told Chris to put everything down there
5 that he could remember, right?

6 A. I told him to put down everything he knew about
7 regarding that incident, good, bad, indifferent.

8 Q. Okay. And I counted it, but you've seen it, right,
9 you saw it, right?

10 A. I've seen the form.

11 Q. And you read it before you delivered it, correct?

12 A. I did.

13 Q. Had he signed it before he read it?

14 A. Had he signed it?

15 Q. Yes.

16 A. Yes. It was complete as it is now.

17 Q. And you read it and you brought it to Detective
18 McCullough but he wasn't there, was he?

19 A. No. I delivered it to the front desk, I didn't see
20 him again.

21 Q. You didn't ask for him?

22 A. I asked for him, but I didn't see him.

23 Q. And do you have that in front of you? I've got a
24 copy of it, it's 190.

25 MR. JAFFE: May I show the witness a copy, Judge?

1 Q. Okay. Let's put it on the screen. I counted 12
2 lines. Is there a date on that? So August the 5th
3 at 3:14 p.m., in that statement, does it say that
4 he was with anyone that could also be an
5 eyewitness?

6 A. No, it doesn't.

7 Q. So it doesn't say he was with Chante Lawson or his
8 fiancé?

9 A. I don't see that written in here, no.

10 Q. Does it say anything about a turn signal that he
11 put it on?

12 A. No.

13 Q. It does give a driver's license number, doesn't it?

14 A. No, sir.

15 Q. Let's zoom in on that, driver's license, right and
16 State?

17 A. Yes, sir.

18 Q. Let's see if there's a number he put. So is this a
19 tag he put but no driver's license and State ID?

20 A. Yes, sir.

21 Q. Is there a place for an employment to put on that
22 form?

23 A. No.

24 Q. Just take a look.

25 A. No place of employment. Okay, it is.

1 Q. Stay with me for a minute. I'm going to be short.

2 Place of employment, was he working at the time?

3 A. I have no idea.

4 Q. You don't have any idea whether your nephew was

5 working in 2020, July 31st or August 1st?

6 A. No, sir.

7 Q. No idea?

8 A. No. I don't keep up with that.

9 Q. So you're familiar with these forms though?

10 A. I am.

11 Q. So did you not, when you read it over, advise him,

12 well, there's a place for employment, you need to

13 put your place of employment? Did you advise him

14 to do that?

15 A. No, I did not.

16 Q. By the way, were you aware that he didn't have a

17 driver's license?

18 A. No, I wasn't.

19 Q. And that he's testified he's never had a driver's

20 license; were you aware of that?

21 A. I was -- the rule is in effect. I wasn't here for

22 any testimony.

23 Q. Well, okay. Were you aware that he's never had a

24 driver's license?

25 A. No, I wasn't.

1 Q. Let's go to the e-mail address. He had an e-mail
2 address, didn't he?

3 A. I don't know. I don't have his e-mail address.

4 Q. Did you ask him or point out to him, there's a
5 place for an e-mail address, you need to provide
6 your e-mail; did you do that?

7 A. No, I did not.

8 Q. What about insurance information? There's a place
9 for that, isn't it?

10 A. It is.

11 Q. He put not applicable. Did you advise him to give
12 his insurance information?

13 A. I did not.

14 Q. There's a place for date of birth. Did you advise
15 him, well, we want to be truthful, we want to put
16 everything we can put in this form? If you want to
17 be completely cooperative, you might want to give
18 your date of birth; did you do that?

19 A. I did not.

20 Q. What about the phone number? There's a place for a
21 phone number. Did you advise him, well, Chris,
22 they may need to get back in touch with you, you've
23 left your phone number out and you need to provide
24 your phone number? Did you do that?

25 A. No, I did not. I'm quite certain they already had

1 it since they called him.

2 Q. And date of birth, that could be important to look
3 at someone's driving history, correct?

4 A. I think you've already covered his date of birth,
5 it's not on here, no.

6 Q. Just wait for a question. Did you advise him,
7 well, they might want to look at your driving
8 history; since you didn't put a driver's license
9 number on there, you might want to give them a date
10 of birth to help them out? Did you do that?

11 A. No, I didn't.

12 Q. A couple of more things and then we want to play
13 the video which is very very short. On this
14 12-line handwritten statement, is there anything
15 about his estimation of the distance the car he
16 turned in front of was traveling, how far away?

17 A. I believe it says up in the distance, see if I can
18 find that part, up in the distance.

19 Q. So there's no 400 yards or anything like that on
20 there, is it?

21 A. No, it's not.

22 Q. So that would be something that Detective
23 McCullough might want to ask how far, in your
24 estimation, Mr. Davis, was the car away when you
25 attempted to turn. That would be something

1 Detective McCullough might want to ask, correct?

2 A. I don't know his mindset. I wouldn't know what he
3 was going to ask or not.

4 Q. When you were investigating that, would you have
5 asked that question?

6 A. It all depends at what point I'm going to ask that
7 question.

8 Q. At any point would you want to know?

9 A. I would try to get that information.

10 Q. Sure. If you were the detective in this case, would
11 you want to know whether he was texting and driving
12 or speaking on the phone with somebody when he was
13 making that turn? Would that be important to you?

14 A. It could be.

15 Q. Or whether he had been drinking that night, would
16 that be important to you?

17 A. It could be.

18 Q. Or whether he was at a party where other people
19 were drinking, would that be important to you?

20 A. It could be.

21 MR. JAFFE: If we could, I'm not sure what
22 exhibit it is or whether we marked it. May I have
23 a moment, Judge?

24 THE COURT: Yes.

25 MR. JAFFE: Judge, what I would propose to do

1 is play a very short video that I think would
2 clarify some things that I've asked.

3 THE COURT: And the exhibit number and is it
4 in evidence?

5 MR. KNIZLEY: It is not, Judge. I think you
6 would want to have Mr. Davis authenticate it here
7 on the stand.

8 MS. RICH: Judge, I would just object that
9 this is improper. I think they're trying to
10 impeach him and there's a process for that.

11 THE COURT: I think they're saying if he
12 recognizes this or not, maybe to see if he can
13 authenticate it.

14 MS. RICH: Well, then, can it just be played
15 just for him?

16 THE COURT: I just said I just set it up for
17 just him and me.

18 MS. RICH: What about the volume?

19 MR. KNIZLEY: Judge, would you like the
20 sound?

21 THE COURT: Sound off, yes, of course, yes.
22 Can you see that lieutenant?

23 THE WITNESS: Yes, sir, I can.

24 (PLAYING VIDEO)

25 THE COURT: Clearly, he can't authenticate

1 any of that. That's totally beyond his ability to
2 authenticate it so far. I'm waiting for a time
3 when he would even possibly be able to.

4 So at 17:02 is about where he might, okay.
5 So play it from 17:02 now for Lieutenant Davis. So
6 make sure you're watching.

7 THE WITNESS: Yes, sir.

8 (PLAYING VIDEO)

9 THE COURT: Stop right there. So 17:02 to
10 17:03:29 or 28, that's the only part you can
11 authenticate. He can't authenticate it after he
12 leaves the room.

13 MR. JAFFE: Sure. Yes, sir, but I think he
14 can authenticate the walk up --

15 THE COURT: That wasn't him. We've got him
16 in the picture. You see what I'm saying? The only
17 time I saw him was in the room.

18 MR. JAFFE: Judge, those timeframes are fine
19 with me.

20 THE COURT: Okay. 17:02 to 17:03:30,
21 roughly, 17:02 to 17:03:30. Can you just play
22 that?

23 (PLAYING VIDEO)

24 THE COURT: And Lieutenant, the parts that
25 you've seen me reference, 17:02 to 17:02:30, does

1 that fairly and accurately portray at least the
2 visual of the meeting which you had?

3 THE WITNESS: Yes, it does.

4 THE COURT: And you're in the picture?

5 THE WITNESS: Yes, I am.

6 THE COURT: All right. Go back a little bit
7 more, the Defense.

8 (PLAYING VIDEO)

9 THE COURT: That's it right there and you'll
10 start right there. You're going to play it with the
11 sound now?

12 MR. JAFFE: Please. And may we reserve that
13 and mark it as an exhibit to be offered when that
14 is ready for offering?

15 THE COURT: Yes, 17:02 through 17:03:30.

16 MR. JAFFE: Yes, sir. And what exhibit would
17 that be?

18 THE REPORTER: 27.

19 MR. JAFFE: 27, Defense, Judge.

20 THE COURT: Whatever number you want. It's
21 27.

22 MS. RICH: Judge, Mr. Davis is here to
23 testify. All three people that are identified in
24 this video are all here to testify. So why do we
25 need the video?

1 THE COURT: I thought you were objecting, and
2 that's why he was doing this.

3 MS. RICH: We are objecting. I mean, why
4 would this be played? It's hearsay. All three of
5 the people that are involved in this conversation
6 are all here to testify.

7 THE COURT: Well, the why is for him to
8 answer, but each of you do things in the case that
9 you think is in the nature of your prosecution or
10 your defense.

11 MS. RICH: We would object to everything on
12 this video being hearsay because the people that
13 are saying what they're saying on this video are
14 here to testify in person.

15 THE COURT: All right.

16 MS. RICH: All three of them.

17 THE COURT: I'm going to overrule the
18 objection as to 17:02 through 17:03:30. Okay.

19 MR. JAFFE: Thank you, Your Honor.

20 THE COURT: Don't thank me for ruling and
21 doing what the law says. I just do it because it's
22 what the law says.

23 MR. JAFFE: Oh, I understand. Thank you.

24 THE COURT: I always tell the lawyers that,
25 y'all don't need to thank me. I'm just doing what

1 the law requires me to do.

2 MR. JAFFE: Sure. Thank you.

3 THE COURT: I know you're just being polite.

4 All right. Are you ready to play it?

5 MR. JAFFE: We are, Judge. But if the Judge
6 will let me, the Court will let me, I'd like to
7 kind of stop it and allow him to identify what he
8 can identify in there.

9 THE COURT: Do whatever you want, that's the
10 part that I think he can -- he's confirmed that he
11 can authenticate it as being a fair and accurate
12 portrayal of his visit with the Lieutenant.

13 (PLAYING VIDEO)

14 MR. KNIZLEY: If it's admitted, he can turn
15 the screen on.

16 THE COURT: It's been admitted in evidence.

17 (PLAYING VIDEO)

18 BY MR. JAFFE:

19 Q. I just want to ask him, for context, if that is
20 Officer McCullough, do you recall walking up the
21 steps with him and Chris to his office?

22 A. Yes, I do.

23 Q. And do you recall you and Chris Davis, Mr. Davis,
24 sitting in his office?

25 A. Yes, I do.

1 Q. Do you recall him beginning to have a conversation
2 with the two of you about cooperation?

3 A. I do.

4 Q. And you did testify a little while ago in response
5 to my question that you thought both of you were
6 fully cooperative with Detective McCullough?

7 A. That's correct.

8 (PLAYING VIDEO)

9 MR. JAFFE: Stop it there, please.

10 Q. Just to make sure it's clear, when Detective
11 McCullough asked you or asked Mr. Davis will you
12 talk with me, I'd like to talk with you, you
13 immediately interjected and said witness statement,
14 correct?

15 A. Right. Christopher Davis said I'm here for a
16 Witness Statement first.

17 Q. And then you --

18 A. And he said something else, I don't recall what,
19 but I said Witness Statement.

20 Q. Right. You confirmed basically all we're going to
21 do is provide a Witness Statement in writing?

22 A. That's absolutely correct.

23 (PLAYING VIDEO)

24 THE COURT: Okay. That's it with this
25 witness.

1 MR. JAFFE: Right.

2 Q. So as you got up to leave, you again made it clear
3 to anyone listening, only a Witness Statement?

4 A. That's absolutely correct.

5 Q. That's correct, isn't it?

6 A. Yes, it is.

7 Q. And you weren't in there when Detective McCullough
8 continued to try to talk with Chris?

9 A. No, I was not.

10 Q. And Detective McCullough made it clear, didn't he,
11 that he wanted more than a written statement, he
12 wanted to actually interview verbally and ask
13 questions to your nephew, correct?

14 A. You asked me if he made it clear to you or to me?

15 Q. To you.

16 A. No, he didn't make that clear to me.

17 Q. So that wasn't clear to you on the video you just
18 saw?

19 A. He said he might have some questions --

20 Q. Right.

21 A. -- but I interjected and said a written statement.

22 Q. Now, when you and Chris Davis left, is that when
23 you took him back and then he wrote out the form?

24 A. That's correct.

25 Q. That is now State's Exhibit 190?

1 A. That's correct.

2 Q. Did either you or Chris inform Detective McCullough
3 that there is potentially another eyewitness that
4 might have even had a better view than Chris?

5 A. I'm not aware of any other witness.

6 Q. Were you aware that his fiancé was in the
7 passenger's seat of that car?

8 A. I was not at that time.

9 Q. Did you ask him if he were with anyone?

10 A. No, I didn't.

11 Q. Did you ask him what he was doing out, just doing
12 out in his car at 12:30, plus, a.m. on the night of
13 the accident?

14 A. I did not.

15 Q. If you were investigating this case and it was a
16 fatality, would you not want to interview another
17 potential eyewitness about this accident?

18 A. If I knew there was another eyewitness, I would
19 request a written statement from that witness.

20 Q. And Detective McCullough couldn't do that if he
21 didn't even know whether there was an eyewitness
22 besides Chris "Adams," could he?

23 A. Chris Davis, no, he couldn't.

24 Q. Chris Davis. He can't interview anybody he doesn't
25 know could have been a witness, correct?

1 A. That's correct.

2 Q. He'd first have to know, well, there's somebody
3 else that was with me when this accident occurred?

4 A. That's correct.

5 Q. But he never got that information from you,
6 correct?

7 A. I never had that information.

8 Q. And it wasn't on the statement?

9 A. No, it's not.

10 Q. Isn't that the reason we want more than someone's
11 12-line version of what happened so we can get the
12 truth?

13 A. We did --

14 Q. When there's more detailed information, that could
15 be very relevant; would you agree?

16 A. That's possible, yes.

17 Q. And somebody that is driving is supposed to be
18 focused on making that left turn, but the
19 passenger's view is going to be slightly different,
20 isn't it?

21 A. Calls for speculation on my part. I don't care to
22 speculate.

23 Q. And their focus is different as well, correct?

24 A. I didn't quite hear what you said.

25 Q. Last question, did you ask your nephew whether he

1 was drinking or present at a party where there was
2 drinking going on that night, whether it was before
3 or afterwards?

4 MS. RICH: Compound question, Your Honor. He
5 asked two questions.

6 THE COURT: Break that up for me if you
7 would, Mr. Jaffe.

8 Q. Did you ask Christopher Davis if he were drinking
9 that night?

10 A. No, I did not.

11 Q. Would that be important information to know?

12 A. It would be.

13 Q. Did you ask him if he was around people that were
14 drinking at any point that night?

15 A. I did not.

16 Q. But you're familiar with that area where this
17 occurred on the service road there alongside South
18 65, right?

19 A. Yes, I am.

20 Q. Would it be fair to say, would you tell the ladies
21 and gentlemen of the jury, whether your main focus
22 that night, that day, that August 5th was to
23 protect your nephew?

24 A. No, sir. My main purpose for that for what I've
25 done is to focus on the fatality, the death of that

1 young lady and to make sure that everything about
2 that accident, from the standpoint with
3 Christopher, everything he knows about that
4 accident, he provides to the investigator on a
5 written statement.

6 Q. Including another potential eyewitness in the car?

7 A. If there was one in there. I mean, I know that
8 now, but I didn't know it at the time.

9 Q. My last question: If Detective McCullough had an
10 opportunity to both interview and record your
11 nephew, he would have learned it that night if he
12 had asked that question, wouldn't he?

13 A. He would have, but I stopped that.

14 Q. I'm sorry?

15 A. I stopped that.

16 Q. To protect your nephew?

17 A. No, sir.

18 MR. JAFFE: Thank you.

19 RE-DIRECT EXAMINATION

20 BY MS. RICH:

21 Q. Why you did stop that?

22 A. Okay. I'll be glad to explain. An accident report
23 is provided by the State of Alabama, and it's
24 called an Alabama Uniform Traffic Report. Every
25 agency in the State has that exact same report.

1 Okay.

2 The Mobile Police Department uses that same
3 report. On that report -- and this is what I'd
4 like to explain. An accident report, it is not
5 necessarily a factual document. Meaning, when you
6 see information about the drivers, most of that and
7 the vehicle information isn't that factual.

8 However, it's clearly stated on that accident
9 report that this report is an opinion, opinion.
10 Very important. It's an opinion of the officer.
11 That's very important because the diagram and the
12 synopsis of what the officer says happened is
13 merely his opinion based upon the evidence from the
14 statements from witnesses and the evidence that he
15 seized at the scene. Should I go further?

16 Q. If you feel like you need to answer that.

17 A. I do. That's very important. And so therefore,
18 when an officer gets a statement from a witness or
19 the driver, it's very important, very important,
20 that nothing -- that their information is wrong and
21 most of all uninfluenced.

22 Now, may I explain something about levels of
23 force with an officer?

24 Q. Sure.

25 A. Okay. The first level of force with a police

1 officer, I'll explain that. Everyone in this room
2 probably at some time has experienced it. The
3 first level of force with an officer is command
4 presence. An example of that is if you're running
5 late for work, you see that light turn yellow, and
6 you know it's going to turn red and you may not
7 make it. And then when you go for it, but all of a
8 sudden, you see that police car to the side, then
9 it automatically changes your mindset. You decide
10 not to take that gamble.

11 Another example might be if you go in the
12 store, you're having a bad day and you see a police
13 officer standing there working a side job. You
14 know, you don't want to mess with -- because the
15 officer never said a word or took any actions
16 whatsoever. That's command presence. Now --

17 Q. How does that affect this case?

18 MR. JAFFE: Excuse me. I'm sorry, Judge.
19 She interrupted him.

20 MS. RICH: I'm just trying to rein him in,
21 Judge.

22 THE COURT: I will say I read that as she's
23 trying to kind of bring it to a conclusion. Go
24 ahead, Officer, you can explain. You can answer.

25 A. How it affects this case is that a witness sees

1 something. If the officer starts asking questions
2 prior to that person giving a statement, those
3 questions can be leading, such as this example.
4 Can you tell me what happened, but first and before
5 I give you this statement to write it all down, did
6 you have your tires inflated properly?

7 Especially if it's an independent witness
8 who's not involved in the accident; did you pump
9 your horn, did you do this. Those things affect
10 the psychological set of a person and so they have
11 a tendency to want to write what they believe the
12 officer wants them to write rather than what they
13 honestly saw and know about that accident.

14 So it's very important -- and this is why I
15 took the actions that I did, is because I did not
16 want any suggestions on Christopher prior to him
17 providing that written statement. I did not want
18 that officer to ask him any questions whatsoever.

19 And so with that, I know that whatever he
20 writes is going to be what he knows about that
21 accident and nothing more. He's not going to write
22 any suggestive -- whether they're intentional or
23 not, influenced by the officer, so, therefore, I
24 stopped the interview. As you can see in that
25 video, I stopped it. I said written statement.

1 Now, counsel asked me if I asked him any
2 questions. It's important that I not do that
3 either because I did not want to influence what he
4 wrote other than to tell him to tell the truth,
5 that's all I wanted. Why? Because that young lady
6 lost her life in that ditch on that August night in
7 September of 2020. I wanted everything to be as
8 honest as possible.

9 THE COURT: All right. Ms. Rich, your next
10 question.

11 MS. RICH: That's it, Your Honor.

12 THE COURT: Any Cross?

13 MR. JAFFE: None.

14 THE COURT: Thank you, Lieutenant. You may
15 step down. Watch your step there.

16 MS. RICH: We call Harry Matthews.

17 HARRY MATTHEWS,
18 after having been first duly sworn, was
19 examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MS. RICH:

22 Q. State your full name please, sir.

23 A. Harry Wayne Matthews.

24 Q. Mr. Matthews, where do you work?

25 A. Currently, right now, Savor.