

1           that Tristan -- if we go longer than an hour for  
2           lunch, Tristan is not going to get to his plane.

3           THE COURT: What time is his plane, 4?

4           MS. RICH: It leaves at 5, but he has to be at  
5           the airport at 4.

6                           (OFF THE RECORD)

7                           (JURY PRESENT)

8                           TRISTAN HUGHES,

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

DIRECT EXAMINATION

11   BY MS. RICH:

12   Q.    What is your full name?

13   A.    My full name is Dr. Tristan Hughes.

14   Q.    And where do you reside, currently?

15   A.    I currently reside outside of Harrisburg,  
16           Pennsylvania.

17   Q.    Okay. And what do you do for a living?

18   A.    I'm a rare disease pharmacist.

19   Q.    And what is a rare disease pharmacist?

20   A.    This is a pharmacist that works with drugs and  
21           conditions that very few people in the U.S. are  
22           affected by. We often have to manage logistics  
23           between patients and shipping as these drugs are  
24           almost never carried in your neighborhood pharmacy.

25   Q.    And what training and experience do you have that

1           qualifies you to be a rare disease pharmacist?

2   A.    I completed my Doctor of Pharmacy from Auburn  
3           University in May of '21. After that, I became a  
4           staff pharmacist with Huntsville Hospital for Women  
5           and Children. I further concentrated my efforts  
6           into general pediatrics at Penn State University  
7           Children's Hospital.

8                   From there, I took my experience with  
9           pulmonary arterial hypertension at that facility to  
10          specialize in as the role I am in now.

11   Q.   And back in July and August of 2020, what were you  
12          doing in regards to your career?

13   A.    I was in my fourth year of pharmacy school.

14   Q.    How many years do you go to pharmacy school?

15   A.    You go for a full four years.

16   Q.    And is that after your undergraduate degree?

17   A.    That is after undergraduate.

18   Q.    All right. And where were you living?

19   A.    I was living at the Highlands Apartments in Mobile,  
20          Alabama.

21   Q.    Okay. And was that on Du Rhu Drive in Mobile?

22   A.    That was 151 Du Rhu Drive.

23   Q.    And are you married?

24   A.    I was married, yes, ma'am.

25   Q.    And what was your wife doing at the time?

1 A. My wife was in medical school. That day, she was  
2 studying.

3 Q. Tell us what was going on in your capacity in  
4 pharmacy school at that time?

5 A. At that time I was on my fourth year rotations.  
6 That means I will rotate into a realm of pharmacy,  
7 be it community pharmacy, or be it a hospital  
8 pharmacy for a month at a time.

9 At this particular time I was nearing the end  
10 of what I call an off-block or what our school  
11 calls an off-block that's a free month that  
12 students are given to study to prepare for job  
13 applications and residency applications when they  
14 graduate.

15 Q. And you were doing that off-block at Highlands  
16 Apartments with your wife?

17 A. Correct. I was staying home during the off-block.

18 Q. And when were you due for the next rotation to  
19 start?

20 A. That next rotation started August 3rd.

21 Q. So in July and August of 2020, did you spend some  
22 time in that off-block free month, so to speak, of  
23 studying and hanging by the pool?

24 A. Studying by the pool and hanging out at the pool,  
25 yes, ma'am.

1 Q. So how did you know the victim in this case,  
2 Samantha Thomas?

3 A. Samantha Thomas was introduced to me by way of my  
4 wife and her being in the same med school class.

5 Q. How long had you known Samantha?

6 A. I had known Samantha for a couple of months at the  
7 time.

8 Q. Did you know Paige Farley?

9 A. I had met Paige Farley a week prior to the event.

10 Q. And how had you met her?

11 A. Through Samantha.

12 Q. And what was Paige's, I guess, relationship or how  
13 did Paige come to be friends with Samantha, with  
14 you and Samantha?

15 A. Samantha and Paige were in the same med school  
16 class. They became friends as such.

17 Q. With your wife, same class as your wife?

18 A. Same class as my wife, yes, ma'am.

19 Q. So can you tell me how did you come to meet Paige?

20 A. Samantha would bring her to the pool.

21 Q. On July 31st of 2020, were you at home in the  
22 Highland Apartments?

23 A. Yes.

24 Q. When this incident occurred --

25 THE COURT: What date did you say?



1 MS. RICH: July 31st of 2020.

2 THE COURT: Go ahead.

3 Q. You were at Highlands Apartments, correct?

4 A. Yes, ma'am.

5 Q. More recently to those events, did you make a  
6 statement for law enforcement of the events that  
7 occurred?

8 A. That day, yes.

9 Q. Maybe not that day but earlier in time, back then,  
10 in July and August, did you make a statement as to  
11 the events that transpired in this case?

12 A. I did make a statement of the events that occurred  
13 on the night of the 31st into the early morning of  
14 August 1st.

15 Q. And you wrote that down and signed it, correct?

16 A. I have written it down, yes.

17 Q. Would that help in your testimony here today if I  
18 showed you that?

19 A. It would help to see it, yes, ma'am.

20 MR. JAFFE: Excuse me, Judge. Let me object  
21 to this. If he needs to be refreshed, we don't  
22 object. But until she lays a predicate that he  
23 can't remember as he reviewed it a week ago, we  
24 object to -- THE COURT: All right.

25 Sustained. You've got to lay a predicate first --

1 Q. So can you tell us what was going on with you that  
2 day?

3 A. I had the day off as I had that entire month. I  
4 had studied and exercised the morning of. By  
5 midday, I had completed that and decided to read by  
6 the pool.

7 Q. And where did you go?

8 A. I got my book and I went to the pool and found a  
9 lounge chair.

10 Q. Was Samantha or Paige at the pool at that time?

11 A. They were not there at first.

12 Q. How did you come to hang out with Samantha and  
13 Paige that day?

14 A. They arrived sometime later.

15 Q. And so prior to you going to the pool, had you done  
16 anything else? You said you had been at the gym;  
17 is that in the apartment complex?

18 A. No, that was a gym in Mobile.

19 Q. What was going on as far as your gym and working  
20 out around that time?

21 A. I was taking it very seriously. I was training for  
22 a weightlifting competition that would take place  
23 in November. So I was adhering to a very strict  
24 diet as well as limiting my drinking, consuming  
25 water regularly, sleeping well and so forth.

1 Q. So when you went down to hang out at the pool, what  
2 did your wife do?

3 A. She was prepping for a test in the near future, so  
4 she was staying upstairs studying.

5 Q. And at some point did Samantha and Paige, Samantha  
6 Thomas, the victim in this case, and Paige Farley  
7 come and meet you at the pool?

8 A. Later on in the afternoon, yes, ma'am.

9 Q. Do you recall around what time that was?

10 A. I would need to see a recollection of my events to  
11 be sure, but late afternoon, I would say, anywhere  
12 between 4:30 and 5:00 Sam came, left to pick up  
13 Paige and then they both arrived back at the pool.

14 Q. And when they arrived back at the pool, did they  
15 have anything with them?

16 A. They had gotten McDonald's and they had gotten a  
17 12-pack of White Claw.

18 Q. What happened when they arrived back at the pool  
19 with the White Claws and the McDonald's?

20 A. They sat down. They consumed their food and  
21 started to ease into their White Claws as well. I  
22 had two, exactly two, and we continued on our own.

23 Q. What were y'all doing? Were y'all talking? Were  
24 y'all just reading? Were y'all laying out? I  
25 mean, just kind of describe what was going on.

1 A. Sure. We were just talking. Every so often we  
2 would get in the pool to refresh and wash the sun  
3 off and cool off. We were talking about Paige and  
4 how she had recently done very well in martial arts  
5 competition. She had, I believe, won the event --

6 MR. JAFFE: And Judge, that's a little too far  
7 and hearsay --

8 THE COURT: All right. Yes, just don't say  
9 what she said at this point. Go ahead.

10 THE WITNESS: Yes, Your Honor.

11 Q. And do you have any personal knowledge as to what  
12 was going on with Samantha around this time?

13 A. All I know is Sam had just completed a rotation in  
14 medical school. She had taken a test for said  
15 rotation and she said to me --

16 MR. JAFFE: Object. It's clear hearsay.

17 THE COURT: Sustained.

18 Q. Without telling us what she said to you --

19 THE COURT: And I will say, you know, witnesses come  
20 in as lay people and it's natural to say it like  
21 this, but the rules of evidence just don't allow  
22 it. Subject to the exceptions, go ahead.

23 Q. Okay. So you knew that she had just taken a test  
24 and do you know which department, which field or  
25 anything like that?

1 A. I believe she had just taken her OB/GYN test, and I  
2 witnessed her physically reviewing her textbook to  
3 check things that she had been tested on.

4 Q. How long did you stay at the pool with them at this  
5 point? You said you had gotten there, I think you  
6 said, around 4:30 or 5:00, and then they got there  
7 shortly after and then how long did you stay?

8 A. I stayed there for about two hours or up until  
9 about dinnertime which I assumed would be about 7  
10 o'clock after which I left to go back to my  
11 apartment and eat.

12 Q. Who did you join to eat?

13 A. I joined my wife upstairs in my apartment to eat.

14 Q. When you were leaving, you said around 7:30, did  
15 you see anybody else at the pool?

16 A. Yes. As I was leaving, the Defendant was coming in  
17 and we crossed paths.

18 Q. And how did you know the Defendant?

19 A. I knew him as a person who was also residing in the  
20 apartment complex. I had seen him once previously  
21 at the pool at a different event.

22 Q. At the previous event that you saw the Defendant at  
23 the pool with, who was he at the pool with?

24 A. He was at the pool with his family.

25 Q. And describe his family.

1 A. Wife, two children.

2 Q. Did you know anything else about him?

3 A. I knew he was a surgeon. I knew he worked at the  
4 Mobile Infirmary. I knew he had contact with a few  
5 medical students --

6 MR. JAFFE: Again, Judge, I don't know where  
7 he's going, but I object to the further -- I don't  
8 know where he's headed.

9 THE COURT: Next question.

10 Q. After you saw him, did you see anything occur at  
11 the pool with him?

12 A. I did not. I had gotten up to use the restroom and  
13 I had come out as he was crossing back into me as I  
14 was leaving.

15 Q. And was he leaving at that point?

16 A. No, he was headed inside the building.

17 Q. Inside the building. And did you notice anything  
18 unusual about him when he headed inside the  
19 building?

20 A. I did not witness this, so I don't know if I can  
21 say this but he --

22 MR. JAFFE: I don't know if he can say it.

23 A. I witnessed him with a patch of water on his side.

24 MS. RICH: He can say what he witnessed.

25 THE COURT: He can say what he saw.

1 Q. So you saw him with wet clothes?

2 A. With wet clothes -- well, not totally wet clothes.  
3 He had partially wet clothes.

4 Q. Then you went upstairs and had dinner with your  
5 wife and then what did you do?

6 A. I sat upstairs with my wife up until about 9:30,  
7 and then I decided I would have a cigar downstairs  
8 at one of the gazebos that the apartment complex  
9 has.

10 Q. And approximately what time did you go down to the  
11 gazebo?

12 A. It would be approximately 9:30.

13 Q. And was anyone there when you first arrived at the  
14 gazebo?

15 A. No.

16 Q. Then did people arrive?

17 A. People arrived shortly later.

18 Q. Who arrived?

19 A. I observed Samantha Thomas, Paige Farley and the  
20 Defendant arrived later on.

21 Q. At the time that Samantha Thomas or Paige Farley  
22 arrived, did they have anything in their hands, or  
23 did you observe anything in their hands?

24 A. I did not observe them. Those two weren't carrying  
25 anything. The Defendant had a bottle of wine and a

1       pink cup.

2   Q.    So what happened when they joined you in the  
3       gazebo?

4   A.    We all sat down and began socializing.

5   Q.    What did you observe occurred with the Defendant?  
6       Describe where everybody was sitting and how the  
7       gazebo is laid out and what kind of furniture is in  
8       the gazebo.

9   A.    Certainly. From my observation, across from me,  
10       was a seated couch cushion. The Defendant was  
11       seated with Paige Farley to his right across from  
12       me, and then Samantha Thomas was seated on another  
13       cushion to my left to separate from either mine or  
14       the Defendant where Paige is.

15   Q.    And what did you see the Defendant do?

16   A.    I witnessed the Defendant move towards Paige  
17       multiple times within the same foot radius as Paige  
18       both with his torso and his head to her head to  
19       approach his head towards her and her face very  
20       closely.

21   Q.    And what was he doing?

22   A.    I would observe him, multiple times, lean over and  
23       put his face next to hers. I would then observe  
24       him, multiple times, lean over and put his face on  
25       top of hers and whisper things that I could not



1           hear. I observed --

2   Q.    You can tell us what you observed.

3   A.    Well, that was later on.

4   Q.    Okay. Anything at this point -- and how many times  
5           did he do that at this point in the evening to  
6           Paige?

7   A.    More than once.

8           THE COURT: And let me state for the record  
9           just to note at this point, and the Court making  
10          the rulings that the Court has made on these  
11          matters, the Court has conducted the Rule 403  
12          Balancing. Go ahead.

13   Q.    What did you see occurring with the bottle of wine?

14   A.    Him continuing to drink from it.

15   Q.    And him being who?

16   A.    The Defendant.

17   Q.    So how many times did the Defendant approach Paige,  
18           and then what happened after he did that? What did  
19           you observe Paige doing when he approached her?

20   A.    Paige was in a physical state that would tell me  
21           she didn't want to move. Paige was not moving --

22           MR. JAFFE: Excuse me --

23           THE COURT: Let him get his objection. Yes,  
24           sir. Go ahead.

25           MR. JAFFE: Where I started to object is when

1       you say she did not want, again, it's entering her  
2       mental state.

3               THE COURT: All right. Sustained.

4   Q.   What did you observe Paige doing?

5   A.   I observed Paige with all her limbs close to her  
6       body. She was leaned back with her head back and  
7       her eyes closed and her hands were covering her  
8       eyes and partially her face.

9   Q.   What did you observe Paige do when the Defendant  
10       approached her?

11   A.   When he got within the same radius as her face, she  
12       would turn away or she would mouth -- I could see  
13       her mouth, the word no, although, I could not hear  
14       it because I was across from her and not right next  
15       to her.

16   Q.   And how many times did he do this?

17   A.   This happened more than once.

18   Q.   Then what happened?

19   A.   This continued to happen throughout his socializing  
20       with us.

21   Q.   Did the Defendant say anything during this time  
22       period to you or to anyone in your presence that  
23       you heard?

24   A.   The Defendant would continue to say to us, let's go  
25       for a ride, let's go get Waffle House, let's go to

1       this bar, this club that my friend has or my friend  
2       operates, continuing to say those things,  
3       continuing to try and get one --

4               MR. JAFFE: Object to what he tried to do,  
5       Your Honor. Object to what he says.

6               THE COURT: Sustained. Go ahead. Next  
7       question.

8       Q. Just tell us what he said.

9       A. Continuing to ask, continuing to say, let's go for  
10      a ride, let's go X, let's go Y.

11      Q. Did anyone take him up on his offer?

12      A. Not at first.

13      Q. At this point, how long did you witness the  
14      Defendant drinking?

15      A. This had gone on for about 30 minutes. I said to  
16      the Defendant, are you sure you want to drive after  
17      having been drinking like this, you've had almost  
18      an entire bottle of wine.

19      Q. And what did the Defendant say?

20      A. He said he -- he said to me, there's another bottle  
21      of wine at the pool that you don't even know about.

22      Q. So at this point when you questioned whether he  
23      should go -- what did you question him about?

24      A. I questioned him driving his car fast, and I  
25      questioned him driving, while he was driving his

1 car after having consumed that much alcohol.

2 Q. Now, in your education to be a pharmacist, did you  
3 receive any specialized training in substances and  
4 their effects on a person?

5 A. Yes. I took a course called Drugs and Substances  
6 of Abuse.

7 Q. In that course, were you educated and did you learn  
8 about how drugs and alcohol affects a person's --

9 A. Yes.

10 Q. -- human body?

11 A. Yes.

12 Q. All right. Have you had occasion to see people  
13 that are intoxicated in your lifetime?

14 A. Yes.

15 Q. And based on your observations of the Defendant at  
16 the pool and then at the gazebo, do you have an  
17 opinion -- in your experience and your training, do  
18 you have an opinion as to whether or not the  
19 Defendant was intoxicated at the time that he was  
20 wanting to go for a drive in his car?

21 A. I have an opinion. However, I can give objective  
22 --

23 MR. JAFFE: Objection, Your Honor.

24 THE COURT: What's your objection?

25 MR. JAFFE: She asked a yes or no question. I

1 don't object to him answering it. He hasn't  
2 expounded yet.

3 THE COURT: He's in the process of it. Let's  
4 see what happens.

5 A. Would you like objective signs and symptoms or  
6 would you like --

7 Q. Do you have an opinion? Just say yes or no,

8 A. Yes. Yes.

9 Q. What do you base that opinion on?

10 A. Objective signs and symptoms.

11 Q. You're a medical doctor, so let's kind of break it  
12 down into layman's terms. What observations did  
13 you observe about the Defendant that made you form  
14 an opinion?

15 A. I just have to correct for the record, I can't  
16 claim the title of medical doctor. I'm a Doctor of  
17 Pharmacy.

18 Q. I'm sorry. You're right. Sorry. Excuse me. I  
19 misspoke, a Doctor of Pharmacy. Based on your  
20 training and based on your life experiences and  
21 based on your observations that night, what did you  
22 observe that helped you form an opinion as to  
23 whether or not the Defendant was intoxicated?

24 A. Slow reaction time, half-closed eyes, flushed face,  
25 slower tone of speech.

1 Q. And based on those observations, what is your  
2 opinion as to whether or not, at the time the  
3 Defendant was talking, about driving somewhere to  
4 go somewhere of whether he was intoxicated or not?

5 A. He was intoxicated and unfit to drive.

6 Q. Now, after you questioned him about that, what did  
7 you see the Defendant do?

8 A. I saw him say to me, if I ever get pulled over, I  
9 just give them --

10 MR. JAFFE: Your Honor, object. You might  
11 have already ruled, but I object to anything about  
12 a police badge. The same objection.

13 THE COURT: Okay. Overruled. Go ahead.

14 Q. You may answer the question. What did you see him  
15 do?

16 A. May I answer what you said or just what he did?

17 Q. What he said, yes, absolutely. What did he say? I  
18 asked the question what did he say and what did you  
19 see him do?

20 A. So what he said was if I get pulled over, I show  
21 them my Police Surgeon's ID Card. He pulled out of  
22 his wallet and showed me his Police Surgeon's ID  
23 Card.

24 MS. RICH: Mr. Jaffe?

25 MR. JAFFE: No objection. Thank you.

1 (STATE'S EXHIBIT 128 MARKED FOR  
2 IDENTIFICATION)

3 Q. I'm showing you now what's been marked as State's  
4 Exhibit Number 128; do you recognize that?

5 A. Yes.

6 Q. And what is that?

7 A. It says Police Surgeon Card.

8 MS. RICH: Judge, if you'll put on the doc  
9 cam, please.

10 MR. JAFFE: And just to qualify, subject to  
11 the judge's previous rulings, there's no objection  
12 to that exhibit.

13 THE COURT: Right.

14 MR. JAFFE: I'm not waiving my objection to  
15 the entire --

16 THE COURT: I've got it on. Have you got it  
17 on there?

18 MS. RICH: I'll move to admit State's Exhibit  
19 Number 128.

20 THE COURT: It's in subject to the objection  
21 that Defense counsel made pre-trial.

22 (STATE'S EXHIBIT 128 ADMITTED IN EVIDENCE)

23 Q. And now I'm showing you what's been marked and  
24 identified as State's Exhibit Number 128; how do  
25 you identify this?

1 A. It says Police Surgeon ID Card.

2 Q. Is that what he showed you that night?

3 A. That's what I saw.

4 Q. What did he say about that?

5 A. He said, if I'm pulled over, I pull this out and  
6 show it to them and they just let me go.

7 Q. Pulled over for -- did he specify what he would be  
8 pulled over for?

9 A. Pulled over for any reason, I show them my Police  
10 Surgeon's ID Card.

11 Q. And did he say anything specific about what  
12 happened in the past that he pulled his ID card  
13 out?

14 A. Speeding.

15 Q. Where did he have this item?

16 A. In his wallet.

17 THE COURT: Are you changing topics now? I'm  
18 not trying to say you should. I have to give an  
19 instruction at some point here about the purpose  
20 for this evidence.

21 MS. RICH: Yes, Your Honor. Go ahead.

22 THE COURT: Ladies and gentlemen of the jury,  
23 I charge that any evidence that may have been  
24 offered bearing on the Defendant's conduct while  
25 driving on other occasions or occasions other than



1 the night of the incident at issue in this case may  
2 be considered by you only as potentially bearing on  
3 whether there was an absence of mistake or absence  
4 of accident at the time of the incident at issue.

5 The evidence as to the Defendant's conduct  
6 while driving on other occasions may not be  
7 considered by you as a basis to conclude that at  
8 the time of the incident made the basis of the  
9 indictment, that the Defendant was acting in  
10 accordance with that or in conformity with that  
11 prior conduct. Okay? Ms. Rich.

12 Q. So when the Defendant kept asking for y'all to go  
13 on a ride, go on a ride, what did you do?

14 A. I stood up and offered to go on a ride with him.

15 Q. And what did you observe about the Defendant when  
16 you said that and what did he say?

17 A. He grinned and changed the topic.

18 Q. So after that and when he changed the topic, what  
19 happened next?

20 A. We continued to socialize about other things.

21 Q. At any point, did you see anybody order food or  
22 anything like that?

23 A. He had mentioned ordering food. We did not, as in  
24 myself, Paige and Samantha did not actively partake  
25 in ordering food.

1 Q. What about in eating food?

2 A. Not that I recall.

3 Q. So did the Defendant ever talk about his family or  
4 moving here or anything like that during that  
5 evening?

6 A. The Defendant mentioned, in my presence, that he  
7 had moved following his wife from Rhode Island.

8 Q. After the conversation -- and during this entire  
9 conversation, did he continue to approach Paige or  
10 had that stopped?

11 A. Yes.

12 Q. Yes what?

13 A. In my presence, I witnessed him never really stop  
14 from doing that periodically.

15 Q. And did he have any conversations with you about  
16 how he acquired the sports car?

17 MR. JAFFE: I'm sorry. I didn't hear the  
18 question.

19 MS. RICH: How he acquired the sports car.

20 MR. JAFFE: I object to that. Relevancy.

21 THE COURT: Ms. Rich, your response? I want  
22 your response to his objection. Relevancy he says.

23 MS. RICH: Well, Judge, can we approach?

24 (JURY NOT PRESENT)

25 MR. JAFFE: I think she should proffer now

1           because I've already objected to relevancy.           MR.

2           KNIZLEY:   It's speculative.

3           MR. JAFFE:   I don't mind, but I don't know  
4           it's relevant anyway.

5           THE COURT:   So, Ms. Rich, the objection is  
6           that question about how he acquired the sports car  
7           is not relevant he says.

8           MS. RICH:   Judge, the fact of the matter is,  
9           is he's talking about his sports car,   he's  
10          bragging about his sports car.   And as Mr. Jaffe  
11          said in opening statements, he was overly bragging  
12          about his sports car, you know, all of those things  
13          and he brought all that up --

14          MR. JAFFE:   I said overly proud and I still  
15          say that.

16          MS. RICH:   Overly proud of his sports car and  
17          this goes exactly to that.   And he'll say that when  
18          he decided to move here, his wife bought him a  
19          sports car and offered to buy him a Cheetah.

20          THE COURT:   A Cheetah, what's that?

21          MS. RICH:   A Cheetah animal.

22          THE COURT:   Oh, you mean an animal? Oh, I  
23          thought it was a car.   I didn't know what you were  
24          talking about.   And so you mean a Jaguar? This also  
25          goes directly to him -- corroborating him saying I

1 know you loved that car.

2 THE COURT: Okay. What's he going to say  
3 about why or how he got the car?

4 MS. RICH: He was bragging that his wife  
5 bought him the sports car.

6 THE COURT: What else is he going to say?

7 MS. RICH: To get him to move here.

8 THE COURT: And what else --

9 MS. RICH: She said she would buy him a  
10 sports car and a Cheetah, that's it.

11 THE COURT: Is he going to say anything about  
12 speed, that she's buying him a fast sports car or  
13 just buying him a sports car?

14 MS. RICH: I don't think he's going to say  
15 anything about --

16 THE COURT: You see where I'm headed with  
17 that?

18 MS. RICH: Yes, I do and I haven't --

19 THE COURT: No, because I mean, if she said he  
20 said -- if the witness is going to say, well, he  
21 said I came here because my wife says she's going  
22 to buy me a fast sports car --

23 MS. RICH: He said this in his statement.  
24 That is what he said -- I'm just going to tell you  
25 exactly what he said in his statement which I can

1           only assume that's what he's going to say here.

2           THE COURT:   Okay.

3           MS. RICH:   Is he said he told me that he  
4           moved here for his wife and kids and he told -- I'm  
5           sorry, I said it wrong.   He told his wife he would  
6           only move here if she let him get an Audi sports  
7           car and a Cheetah.

8           THE COURT: Okay.   Go to 403, on that, there's  
9           some wealth involved in that, you know.   And I  
10          mean, it does have some probative value, but I  
11          think the prejudicial impact of the wealth, 403 on  
12          that would be problematic.

13          I don't think it's a bad faith proffer by you  
14          to try to do that.   But if she had said I want to  
15          buy him a fast sports car and a Cheetah --

16          MR. JAFFE: No, she changed that.

17          THE COURT:   No.   I'm just saying if he had  
18          said that to your guy but he didn't.

19          MR. JAFFE:   Right, but it's wealth.

20          THE COURT: That's fine.   So I'm going to  
21          sustain the objection.   Let's go the next question.

22                       (JURY PRESENT)

23          THE REPORTER: Okay.   I'm ready.

24          THE COURT: Wait just a second.   I want to  
25          tell the jury this.   I kind of want to brag on Ms.

1 Cook, she does a great job. Imagine if your job  
2 was to take down every word that every person in  
3 the courtroom says for days at a time sometimes,  
4 and you might have dozens of people you have to  
5 identify. It has to be done contemporaneous with  
6 the word being said. That's a really tough job.  
7 That's what she's doing. So it takes a little time  
8 to set up and we appreciate that.

9 Ms. Rich, go ahead. Your next question.

10 BY MS. RICH:

11 Q. You stated that he kept wanting to go somewhere to  
12 go for a ride, and then you called him and said  
13 I'll go and you said he changed the subject. So  
14 what happened at some point with regard to going  
15 for a ride?

16 A. Shortly after that, Paige Farley joined him for a  
17 ride in his Audi.

18 Q. Do you recall approximately what time that was?

19 A. I would have to see the nights events again for  
20 sure, but approximately 10:30.

21 Q. And so do you know approximately how long they were  
22 gone?

23 A. They were gone for about 10 to 15 minutes.

24 Q. And what happened when they came back?

25 A. They both walked back to the gazebo. Paige

1 physically stood there for a moment. Said I'm  
2 going to go change, and then she left to go back to  
3 Sam's apartment to change.

4 Q. And what did you and Samantha do?

5 A. Samantha and I stayed seated in the seats that we  
6 had occupied the entire night while the Defendant  
7 sat back down across from me.

8 Q. Okay. And then what did y'all do?

9 A. We continued to talk.

10 Q. And then what happened?

11 A. Sometime after that, Sam mentioned that Paige had  
12 been taking --

13 MR. JAFFE: Objection. Hearsay.

14 THE COURT: Ms. Rich.

15 Q. Just tell us what happened next?

16 A. Sam and I got up to go check on Paige.

17 Q. And why did you get up to go check on Paige?

18 A. She had been gone for an amount of time.

19 Q. What happened when you and Sam went up to check on  
20 her?

21 A. We got to Sam's apartment. I stood in the doorway.  
22 Sam went in to check on Paige. They spoke some  
23 words that I could not hear. We left and then went  
24 back to the gazebo.

25 Q. And who all went back to the gazebo?

1 A. All three of us, myself, Paige and Sam.

2 Q. At the time you left the gazebo, was the Defendant  
3 drinking alcohol?

4 A. I cannot be sure. I know that the wine bottle was  
5 empty.

6 Q. And then when you got back to the gazebo, was there  
7 any more alcohol consumed?

8 A. There was just the wine bottle and the cup.

9 Q. When you and Samantha and Paige got back to the  
10 gazebo, what happened then?

11 A. We continued to talk.

12 Q. And during those conversations, what did you  
13 observe the Defendant doing and what did you  
14 observe Paige doing?

15 A. The Defendant, I witnessed, continued his previous  
16 actions towards Paige.

17 Q. Describe what those actions were.

18 A. The Defendant, I watched physically move into the  
19 same foot radius as Paige both with his torso and  
20 his head to her head to approach his head towards  
21 her head and her face very closely.

22 Q. And how long did this occur, these actions by the  
23 Defendant and what was Paige doing?

24 A. I don't know the exact time. It was much more  
25 abrupt -- much more abruptly. After the car ride,



1       Paige got up, said I'm going to bed and left.

2   Q.   And left the gazebo a second time?

3   A.   Yes.

4   Q.   And can you describe, in your opinion, was Paige  
5       intoxicated?

6   A.   Yes.

7   Q.   Can you describe how Samantha was acting?

8   A.   Samantha, physically, had her limbs by her sides.  
9       I observed her observing everyone with her eyes  
10      looking back and forth. I observed her with  
11      nervous ticks, hands towards her face, balancing  
12      her legs, hands under her legs observing what was  
13      going on.

14   Q.   When she was doing all that, what was the Defendant  
15      doing?

16   A.   The Defendant was continuing -- well, the Defendant  
17      I observed physically. He continued to approach  
18      both women to be in the same foot radius as both  
19      women.

20   Q.   But Paige had already left at this point?

21   A.   After that had happened, the Defendant began to  
22      move towards Samantha. He then began to get in the  
23      same foot radius as Samantha either by leaning in  
24      and then leaning back out, brushing up against her  
25      and so forth.

1 Q. Did he say anything to Samantha?

2 A. What he said was -- continuing to say was, you  
3 know, let's still go for a ride, let's go  
4 somewhere, let's go out.

5 Q. And what was Samantha doing when he was within a  
6 foot of her?

7 A. Samantha leaned away.

8 Q. And approximately how many times did this happen  
9 with the Defendant moving in and then Samantha  
10 moving away?

11 A. No more than twice.

12 Q. So at this point, what did you do?

13 A. At this point I got up and said I'm going to bed,  
14 and I offered to take Samantha home to her  
15 apartment.

16 Q. At some point, did you look at Samantha's phone  
17 before y'all went to her apartment?

18 MR. JAFFE: Judge, you've ruled on this. I  
19 object to this. And if she's going further with  
20 it, we need this on the record. You've ruled on  
21 this.

22 THE COURT: Briefly off the record. Let's get  
23 you both up here.

24 (OFF-THE-RECORD DISCUSSION)

25 Q. So did you escort Samantha to her apartment?

- 1 A. I escorted Samantha to a space outside of her  
2 apartment. She walked in her apartment, I closed  
3 the door and left.
- 4 Q. And you went back to your apartment with your wife?
- 5 A. I went back to my apartment.
- 6 Q. Did you make anymore statements to Samantha,  
7 statements or texts or anything like that, your  
8 words, not her words?
- 9 MR. JAFFE: I object. It's still hearsay. It  
10 doesn't matter whose words.
- 11 THE COURT: Sustained.
- 12 MS. RICH: But it's what he's saying, Your  
13 Honor.
- 14 THE COURT: Sustained.
- 15 Q. Did you text Samantha?
- 16 A. I sent her an Instagram.
- 17 Q. Don't tell us what, but did you send -- you said  
18 you sent her an Instagram, correct?
- 19 A. Message.
- 20 Q. Did Samantha ever reply to that Instagram?
- 21 THE COURT: Just did she reply, not what she  
22 said.
- 23 Q. Go ahead.
- 24 A. Did she reply?
- 25 Q. Yes.

1 A. No.

2 Q. And when you left Samantha at her apartment door  
3 that night, was that the last time you saw Samantha  
4 Thomas?

5 A. That is the last time I saw Samantha Thomas.

6 Q. When did you find out that she had been killed?

7 A. I found out Samantha Thomas had been killed the  
8 next morning at 11:00 a.m.

9 MS. RICH: At this time, Your Honor, we're  
10 going to play State's Exhibit Number 130 and ask  
11 the Defendant to explain what is occurring -- I'm  
12 sorry, the witness, not the Defendant, excuse me --  
13 what is occurring during the video.

14 THE COURT: Contemporaneous with the --

15 MS. RICH: Yes, Your Honor. I'm going to  
16 pause it.

17 MR. KNIZLEY: Because the video is  
18 examination of the witness is the reason I'm making  
19 the objection, but I don't think there's a  
20 predicate laid for this witness to testify about a  
21 number of things that are on the video.

22 THE COURT: The video is in evidence.

23 MR. KNIZLEY: Yes, but for this witness to  
24 testify --

25 THE COURT: Maybe he does. Maybe he doesn't.

1 Well, ask the State to lay a predicate, did he have  
2 any knowledge of these events. If he can't, then  
3 that goes to the weight of the testimony rather  
4 than the admissibility because these videos are in  
5 evidence.

6 (PLAYING VIDEO)

7 Q. Have you seen this video before?

8 A. Yes, ma'am.

9 Q. Do these videos depict -- except for the time that  
10 you were leaving to go to the bathroom, do these  
11 depict what occurred with you by the pool and the  
12 comings and goings of the people that were with you  
13 at the pool?

14 A. Yes.

15 MR. KNIZLEY: Judge, I have to object as to  
16 the compound question. The video encompasses more  
17 than this witness could have possibly had knowledge  
18 of, and I'd like to take the witness on voir dire  
19 if necessary.

20 THE COURT: Well, it's Mr. Jaffe's witness on  
21 cross, right?

22 MR. KNIZLEY: I understand.

23 THE COURT: Well, you can't have two guys,  
24 one to do cross. It's just the way it is.

25 MR. JAFFE: Judge, I would do the same thing,

1 but the simple objection is this. Anything that he  
2 was present for --

3 THE COURT: He can say that, can't he, during  
4 the course of his narration, say I wasn't present  
5 for that?

6 MR. KNIZLEY: That's not the question she  
7 posed to him.

8 MR. JAFFE: It was a compound question, and we  
9 would ask her to rephrase the question and also  
10 object to him narrating, I guess, a seven-minute  
11 compilation video of things that he wasn't present  
12 for.

13 THE COURT: Let's do this. Just, if you  
14 would, maybe rephrase your question to provide that  
15 he would describe what's going on when he was  
16 there.

17 MS. RICH: I'll ask individual questions,  
18 Your Honor.

19 THE COURT: Okay. Let's do that. Go ahead.

20 Q. The video hasn't started yet. Can you please  
21 describe what this is and what it's showing to the  
22 ladies and gentlemen of the jury, please?

23 THE COURT: For the record, to give the record  
24 eyes, there's just a still-shot right now up on the  
25 video showing the parking lot and the pool area.

1       There's no movement yet being depicted. Go ahead,  
2       Ms. Rich.

3       A.    This is an aerial view of the center fountain  
4       parking area in the Highlands Apartments. At the  
5       top center half, you can see me seated on a lounge  
6       chair in a bluish-white shirt. In the center  
7       bottom half of the image, you can see the Defendant  
8       driving a blue turquoise car into his parking  
9       space.

10           MS. RICH: Your Honor, may I have your  
11       pointer?

12           THE COURT: And you can have the witness step  
13       down to point if you want to for you. Doctor, you  
14       can step down and you'll have to stand right beside  
15       Ms. Rich. That's fine.

16       Q.    If you'll take the pointer and point to where  
17       you're sitting?

18       A.    Right here. (Indicating)

19       Q.    Okay. I'll stand out of the way so y'all can see  
20       it. And --

21           THE COURT: Mr. Jaffe and Mr. Knizley, you can  
22       step right over this way if you wish to watch.

23       Q.    Is anybody with you at this point?

24           (PLAYING VIDEO)

25       A.    You can see -- it's too blurry to make out -- but

1           either Samantha or Paige there and Samantha or  
2           Paige there.

3   Q.    That's the area that y'all were sitting in?

4   A.    Yes, ma'am.

5   Q.    What else can you identify regarding vehicles in  
6           this picture?

7   A.    This is one of the Defendant's cars, this is the  
8           other of his cars. This is the Audi R8 that was  
9           flipped.

10               MS. RICH: If you'll play, advance the thing.

11                       (PLAYING VIDEO)

12   Q.    Stop it. And that blue car, can you, in any way,  
13           identify that blue car?

14   A.    It's a BMW.

15   Q.    The Defendant's BMW?

16   A.    The Defendant's BMW, yes, ma'am.

17   Q.    And continue.

18   A.    I am up here walking. This is the point mentioned  
19           where I walk in to go to the bathroom.

20   Q.    Right.

21   A.    I believe it just skipped ahead.

22   Q.    Okay. Now, where are you? Are you out there at  
23           this point?

24   A.    No, I'm inside. They are -- well, I can't speak to  
25           this. I'm not --



1 Q. Right. We don't need you to describe it. There  
2 will be someone that will. And so in just a  
3 moment, if you'll tell us when you walk back in?

4 (PLAYING VIDEO)

5 A. Here I am again. He has passed me.

6 Q. That's the Defendant?

7 A. That is the Defendant.

8 Q. Okay. And you're now there with the Defendant and  
9 the Defendant is walking away from the pool?

10 A. Correct, walking away towards the building.

11 Q. All right. And is that the building that you know  
12 him to live in?

13 A. I'm not certain where he lived.

14 Q. Okay. And now are you back in the video?

15 A. I am right here. (Indicating)

16 Q. Now, you did not physically observe this?

17 A. No.

18 Q. Okay. Now, when the Defendant comes back out to the  
19 pool, in this video, he had something in his hands;  
20 did you observe that?

21 A. I don't recall what he had in his hands.

22 Q. Okay. And are you in this video now?

23 A. Right here. (Indicating)

24 Q. And do you see the Defendant entering?

25 A. I see him here. (Indicating)

1 Q. And you did not observe this, correct?

2 A. No.

3 Q. Nor this?

4 A. No.

5 Q. Nor the Defendant coming back, right?

6 MR. JAFFE: Your Honor, could I just stop here  
7 for just a moment?

8 THE COURT: Stop that video. Mr. Jaffe?

9 MR. JAFFE: Would you instruct the ladies and  
10 gentlemen of the jury that this is not -- this is  
11 seven minutes of a compilation of 40 hours of  
12 video?

13 THE COURT: It's undisputed. Ladies and  
14 gentlemen of the jury, it is undisputed between the  
15 parties that this is a compilation of different  
16 video segments. This is not one video segment that  
17 jumps around the apartment. This is the State's  
18 compilation. The Defense may have their own  
19 version or pieces of it that they want to show  
20 later. This is a compilation. Ms. Rich.

21 MR. JAFFE: Thank you.

22 THE COURT: Go ahead.

23 (PLAYING VIDEO)

24 Q. Did you see what the Defendant had in his hand?

25 A. I was not present for this. I don't know if I can

1           answer that.

2           MS. RICH: Okay. Stop it for a minute,  
3           please.

4   Q.    When you observed the Defendant at the gazebo, you  
5           said there was a wine bottle and what else?

6   A.    He had a wine bottle and a pink cup.

7   Q.    Okay.

8           MS. RICH: Play it, please.

9           (PLAYING VIDEO)

10   Q.   Now, if you note the time on the video, what  
11           happens at the pool at 10 o'clock? What happens at  
12           the pool at 10 o'clock?

13   A.    It closes or they leave.

14   Q.    Well, at 10 o'clock, what are the rules of the  
15           apartment complex?

16   A.    I'm not certain, but I don't -- would you like me  
17           to elaborate?

18   Q.    So where are you at this point?

19   A.    I'm off camera over here in a gazebo.

20   Q.    So when they walk up, as evidenced by what just  
21           happened, you are at the gazebo. Now, what is  
22           occurring here? Did you witness this?

23   A.    I did not witness this.

24   Q.    Were you in the gazebo at this time?

25   A.    This is later at night.

1 MR. JAFFE: Judge, I object to this. If he  
2 didn't witness this, he didn't witness it. THE  
3 COURT: Sustained.

4 MS. RICH: You can stop it for a minute.

5 A. I have a question --

6 MR. JAFFE: Object to him --

7 Q. Did you witness Paige Farley and the Defendant get  
8 in the vehicle together?

9 A. Oh, yes.

10 MS. RICH: So he did witness this. He's just  
11 a little confused.

12 MR. JAFFE: I withdraw my objection if he  
13 witnessed it.

14 Q. So this is at 10 o'clock, do you see the time up at  
15 the top?

16 A. 22:30, this is 10:30 p.m.

17 Q. Right. And so you witnessed this?

18 A. I am off camera, that was where my confusion came  
19 from, but I did witness this.

20 Q. And you said they were gone approximately how long?

21 A. Ten to 15 minutes.

22 Q. And now you see this screen has jumped?

23 A. About eight minutes.

24 Q. Eight minutes. And were you present and did you  
25 witness them come back?

1 A. I am off camera here. (Indicating) I witnessed  
2 them come back from my vantage point.

3 Q. Thank you. You can take a seat. Now, when you  
4 stated that you knew that he was intoxicated, why  
5 did you volunteer to go in the car with him?

6 MR. JAFFE: Object, Judge. There's no  
7 relevance to his state of mind. And all that's  
8 going to do -- I know where she's headed. I object  
9 to this under 403 and 401.

10 THE COURT: Sustained. Go ahead.

11 MS. RICH: Okay. I pass the witness.

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

13 MR. JAFFE: Thank you, Your Honor.

14 THE COURT: If you will answer Mr. Jaffe's  
15 questions. Still under oath.

16 CROSS-EXAMINATION

17 BY MR. JAFFE:

18 Q. Good afternoon.

19 A. Hi.

20 Q. Now, we spoke earlier for the first time with you  
21 under oath?

22 A. Yes, sir.

23 Q. So I may ask you a few of the questions that I  
24 asked you when you were under oath a few hours ago.

25 A. Yes, sir.

1 Q. I just wanted to kind of inform you of that.

2 A. Yes, sir.

3 Q. Now, I notice that when you introduced yourself  
4 earlier and today, you referred to yourself not as  
5 Tristan Hughes but as Dr. Tristan Hughes.

6 A. Yes, sir.

7 Q. But you're actually a pharmacist, you're a  
8 pharmacist with a specialty?

9 A. I have to inform you that does place the Dr. title  
10 in front of my name.

11 Q. Well, I understand. I get that. But when people  
12 come into your pharmacy, do they call you Doctor?

13 A. Frequently, they do, yes, but I don't work in a  
14 pharmacy.

15 Q. All right. When you did work in a pharmacy, did  
16 you have a pharmacy degree?

17 A. Yes, sir.

18 Q. And is it your testimony to this jury that  
19 pharmacists are often referred to as doctors?

20 A. Yes.

21 Q. Okay.

22 A. Often is subjective but yes.

23 Q. Very well. I'll accept your word for it. And I  
24 notice that while you call yourself Doctor, you  
25 call our client Dr. Johnny Nakhla who has a medical

1 degree as the Defendant, don't you?

2 A. Yes.

3 Q. You have, not once, not once, not once mentioned  
4 his name, Jonathan, Johnny Nakhla, have you?

5 A. No.

6 Q. Every single time you call him the Defendant?

7 MS. RICH: Is that a question, Your Honor?

8 MR. JAFFE: Yes, it's a question.

9 MS. RICH: That was a statement. Objection.

10 MR. JAFFE: That was a question.

11 MS. RICH: That was not a question.

12 THE COURT: Are you saying is that true?

13 Q. Is that true?

14 A. Is it true I've never said his name in this trial?

15 Q. Yes.

16 A. Yes.

17 Q. I want to just be clear that you've told the ladies  
18 and gentlemen of the jury that you knew Ms. Thomas,  
19 Samantha Thomas for about two months?

20 A. I'm sorry. Say that again.

21 Q. For about two months?

22 A. About, yes, sir.

23 Q. And of course it was more than disturbing when you  
24 learned at 11, the next day, that she had passed  
25 away in this car wreck, of course?

1 A. Yes, sir.

2 Q. And understandably, you're still disturbed as we  
3 all are, correct?

4 A. Yes, sir.

5 Q. Now, at some point, did you proactively, on your  
6 own, contact the authorities and volunteer some  
7 information to them? And it's a yes or no  
8 question.

9 A. Yes.

10 Q. And did you, in fact, among the information, tell  
11 them that you had a wine bottle and a glass that  
12 would have his prints on it? It's a yes or it's a  
13 no.

14 MS. RICH: Now, Judge, he's allowed to explain it.

15 MR. JAFFE: I agree he is.

16 THE COURT: Let him answer. Go ahead.

17 A. The one bottle and the pink cup observed in the  
18 video were still at the gazebo the next morning.

19 Q. Right. And did you say cup or glass?

20 A. I said pink cup.

21 Q. They told you basically they didn't need it,  
22 correct?

23 A. Yes, sir.

24 Q. Now, you also, on your own, voluntarily drew up a  
25 timeline and gave it to them, correct, of the



1 events of July 31st?

2 A. Yes, sir.

3 Q. And you weren't asked to do that, you wanted to  
4 help them; is that true?

5 A. I offered my help. They asked for a timeline.

6 Q. Now, I also notice that on your timeline you use  
7 military time?

8 A. Yes, sir.

9 Q. And I think we talked a minute ago, maybe an hour  
10 and-a-half ago, I'm bad on time, and I asked you if  
11 you had any military training?

12 A. No.

13 Q. And I asked you that, didn't I?

14 A. Yes, sir, you did.

15 Q. And you said you have not?

16 A. Correct.

17 Q. So I ask you is it common for a pharmacist, for a  
18 person that does what you do to speak in military  
19 time?

20 A. Yes, sir.

21 Q. So that's the way you guys talk?

22 A. Yes, sir.

23 Q. And would that be true that doctors speak in  
24 military time too?

25 A. It could be.

1 Q. No, I'm asking you, your experience. In your  
2 experience, I want you tell the ladies and  
3 gentlemen of the jury if you and doctors speak to  
4 each other in military time and you and the nurses  
5 and the doctors at hospitals and doctor's offices  
6 speak in military time? It's either yes or no.

7 A. Yes, sir.

8 Q. What's the answer?

9 A. Yes, sir.

10 Q. Okay. And do your doctors speak to you in military  
11 time?

12 A. Yes, sir.

13 Q. Now, you made some mistakes and I'll get to them in  
14 your previous testimony, didn't you? For example  
15 --

16 MS. RICH: Again, he needs to --

17 THE COURT: Let her finish her objection.

18 MS. RICH: I would note that if he is trying  
19 to impeach the witness, he needs to show the  
20 witness something, he hasn't done that and he's  
21 making a statement that -- he's vouching for  
22 something that is not true.

23 THE COURT: If you're going to impeach, you've  
24 got to give the witness a chance to vouch for the  
25 prior statement. You've got to offer it to him

1 first.

2 MR. JAFFE: I was about to, Judge, but it was  
3 horrible and I don't have a copy of it. So I've  
4 got to refresh his recollection. She just took it  
5 down. I don't have a copy of it.

6 THE COURT: Well, you know how to impeach a  
7 witness at this point. We all do. That's not the  
8 way. Go ahead.

9 Q. All right, sir. Where I'm headed is this, you  
10 initially -- I asked you what time you remembered  
11 that Johnny returned to the complex and you said 4  
12 or 5 o'clock --

13 MS. RICH: Judge, I'm sorry. I'm going to  
14 object to this entire line of questioning because  
15 he's now referencing a hearing that happened  
16 outside the presence of the jury in making and  
17 formulating his questions.

18 THE COURT: Overruled.

19 Q. Did you tell the judge under oath a little while  
20 ago that you remembered Johnny returning at 4 or 5  
21 o'clock?

22 A. Approximately.

23 Q. Right. But it's actually now that you've seen some  
24 video, it's actually 7 o'clock?

25 A. Yes, sir.

1 Q. Now, you're a bodybuilder?

2 A. No.

3 Q. You compete?

4 A. Not in bodybuilding.

5 Q. In martial arts?

6 A. No. Would you like me to elaborate?

7 Q. No.

8 A. Okay.

9 Q. You certainly keep yourself in excellent shape.

10 A. Yes, sir.

11 Q. And Paige Farley was also a competitor or is a  
12 competitor?

13 A. Yes, sir.

14 Q. In pretty good shape?

15 A. Yes, sir.

16 Q. Were you there when she attempted to pull Johnny  
17 and push him in the pool?

18 A. No, I stated that earlier.

19 Q. I know, but I want to be clear because earlier they  
20 weren't there.

21 A. No.

22 Q. Okay. Now, you were asked and you said basically  
23 just a minute ago when the prosecutor was asking  
24 you questions, you basically told these ladies and  
25 gentlemen of the jury that Dr. Nakhla consumed and

1       you saw him consume a bottle of wine; did you not  
2       say that a minute ago?

3   A.   The wine bottle was empty.

4   Q.   I get the wine point is empty. But I asked you  
5       this question just a little while ago, you used the  
6       words he was sipping wine; do you recall saying  
7       that?

8   A.   Sure, yeah.

9   Q.   And then I followed up with you. And I said, okay,  
10       you just said he was sipping wine. You don't know  
11       how much he drank, do you? And you recall your  
12       answer being no just a while ago?

13  A.   I can't give you the exact amount.

14  Q.   Right. And so your answer was no a little while  
15       ago, wasn't it, like it is now?

16  A.   Yes, sir.

17  Q.   You didn't see him drink a whole bottle of wine by  
18       himself, did you?

19  A.   No.

20  Q.   But you implied that, didn't you?

21       MS. RICH: Judge, I'm going to --

22       THE COURT: It's Cross-Examination. The doctor can  
23       handle it. Go ahead.

24  A.   I believe my words earlier today --

25  Q.   I just asked you did you apply it. If you didn't,

1 no problem.

2 A. That he drank an entire of bottle of wine by  
3 himself?

4 Q. Yes.

5 A. No.

6 Q. Okay. Then we're clear on it, thank you. Now, I  
7 think we just saw Paige and Johnny walk over to his  
8 car, right? We just saw it, all of us together,  
9 right?

10 A. Yes, sir.

11 Q. And you've seen it before?

12 A. Yes, sir.

13 Q. I thought she asked him and he said he did?

14 A. Yes, sir.

15 Q. And you were off camera in watching it too, right?

16 A. Yes, sir.

17 Q. Did you also notice that Paige whipped or flung the  
18 towel, her towel at Johnny before they got into the  
19 car?

20 A. I could not see that.

21 MR. JAFFE: Can I have a second, please?

22 Q. So if that happened, you didn't see it?

23 A. I could not see that on the video.

24 Q. Now, you were shown a picture of him initially  
25 after he got home from work, and do you know what

1           time he got to the pool after he worked out?

2   A.   He did or I did?

3   Q.   After he worked out?

4   A.   I don't know the exact time, no.

5   Q.   Okay. And you saw him carrying a cup on the video,  
6           and you said you didn't know what was in it?

7   A.   I didn't ask him what was in it.

8   Q.   Right. But then you know what coffee looks like,  
9           right?

10   A.   It doesn't have ice in it usually.

11   Q.   I'm sorry? Did you notice if there was coffee in  
12           that cup?

13   A.   Hot coffee or cold coffee?

14   Q.   I don't know, but it doesn't really matter. Did  
15           you notice it was dark in his coffee?

16   A.   Which cup, the white one or the --

17   Q.   The first one.

18   A.   The white one? I didn't see what was in it.

19   Q.   Okay. Very well. Now, I thought you told the ladies  
20           and gentlemen of the jury and the judge that you  
21           were getting in shape for something and you were  
22           being careful about what you ate; is that correct?

23   A.   Yes, sir.

24   Q.   But you still had two of those 12 White Claws,  
25           didn't you?

1 A. Yes, sir.

2 Q. And you know how much each of the other people  
3 drank, don't you?

4 A. I don't know exactly how much they drank, no.

5 Q. But you gave an opinion, didn't you, that 6 were  
6 drunk, whatever the right word is, consumed by  
7 Samantha and four by Paige?

8 A. The White Claws, I was not responsible for. They  
9 would have either been partially or completely  
10 consumed by the other people at the pool.

11 Q. I'm just asking if you had given that estimate to  
12 somebody?

13 A. Probably did, yes, sir.

14 Q. Okay. That's why I was asking you because I can't  
15 testify.

16 THE COURT: Mr. Jaffe, no need for post-comments.  
17 Just question and answer, question and answer.

18 MR. JAFFE: Yes, sir.

19 Q. Going to the gazebo, would you describe it, how big  
20 it is and just kind of help me out? For example,  
21 let's just say, if I could, say from where the  
22 court reporter is to the judge, where I am, I  
23 guess, to His Honor and then me moving over here to  
24 you; was it bigger than that?

25 A. An approximate distance, my seat would be here,



1           that table would be here and then seat with the  
2           Defendant and Paige would be where our court  
3           reporter is.

4   Q.    So it's even smaller than what I outlined?

5   A.    It's an approximation, but yes.

6   Q.    Okay. Thank you. So people sitting in that gazebo  
7           are naturally going to be pretty close to each  
8           other?

9   A.    It depends on the size of the gazebo, yes.

10   Q.   I'm talking about that gazebo is the only one I  
11          care about.

12   A.    I can't tell you for sure.

13   Q.    How many people would it sit?

14   A.    It will sit, comfortably, six people.

15   Q.    At some point did you know that Paige went up and  
16          went to sleep on the couch at Samantha's?

17   A.    Do you have a time period for some point? I mean,  
18          some point could be at the end of the night or it  
19          could be when she left for the first time. She  
20          could have slept both times. You'll have to be  
21          more specific.

22   Q.    At any point were you aware that she went to sleep  
23          on the couch?

24   A.    I was aware that she slept on the couch at the end  
25          of the night, yes, sir.

1 Q. And that she was also intoxicated?

2 A. Yes, sir.

3 Q. You were there when Johnny ordered food?

4 A. Yes, sir.

5 Q. At the gazebo?

6 A. Yes, sir.

7 Q. And he ate a good bit of it?

8 A. I don't recall how much or how little he ate of it.

9 Q. Did you see anybody else eating it?

10 A. I don't remember.

11 Q. If people have something they want to say to  
12 someone that's sitting real close to them, maybe a  
13 whisper, would they lean in to somebody and --

14 MS. RICH: Objection. Speculation.

15 THE COURT: Your response? You're asking him  
16 an opinion about human behavior in general.

17 MR. JAFFE: I'll rephrase it.

18 Q. Is it your experience that sometimes people lean  
19 over to other people when they whisper?

20 THE COURT: Either he's going to be giving  
21 these perceptions or not. We foreclosed that with  
22 the State.

23 MR. JAFFE: Yes, sir.

24 THE COURT: So we've got to either do it for  
25 both or for neither.

1 MR. JAFFE: I respect that, Judge, and I have  
2 nothing further.

3 THE COURT: Any Redirect from the State?

4 MS. RICH: Yes, Your Honor, just a few  
5 questions.

6 REDIRECT EXAMINATION

7 BY MS. RICH:

8 Q. So is it fair to say that you watched the Defendant  
9 drink over the course of the evening?

10 A. Yes.

11 Q. And the Defendant even insinuated to you that he  
12 had been drinking more than what you saw him drink,  
13 right?

14 A. Yes, ma'am.

15 Q. So is it still your testimony that your opinion is  
16 that the Defendant was intoxicated that --

17 MR. JAFFE: Object. This is -- he's answered it.  
18 It's just re-plowing old ground.

19 THE COURT: Rephrase the question.

20 Q. So the Defense asked you on Cross-Examination  
21 about, you know, whether you saw him drink the  
22 entire bottle of wine or not.

23 A. Yes, ma'am.

24 Q. Whether you saw him drink the entire bottle of wine  
25 or not, does that in any way change your opinion

1           that you gave that the Defendant was intoxicated  
2           when he got into the vehicle with Paige that night?

3   A.    No, ma'am.

4   Q.    Do you see the person that you saw out there by the  
5           pool and doing all this that night with you,  
6           Samantha, and Paige in the courtroom today?

7   A.    Yes, ma'am.

8   Q.    Can you point him out to the ladies and gentlemen  
9           of the jury?

10   A.   The Defendant right there. (Indicating)

11           THE COURT: Any Re-Cross?

12           MR. JAFFE: No, sir.

13           THE COURT: Ladies and gentlemen, we're going  
14           to take a 10-minute break. It's a quarter of 3.  
15           I'm going to have you back in at 5 until 3, until 3  
16           o'clock. Okay.

17                   (JURY NOT PRESENT)

18           THE COURT: During the Direct Examination Dr.  
19           Hughes said something in response to a question  
20           about intoxication, and a part of the response or a  
21           second portion he elaborated some and said too  
22           intoxicated to drive or not fit to drive or  
23           something like that.

24                   I had earlier ruled that I was not going --  
25           that was a spontaneous declaration by the witness.

1 I had not given him any instructions to not do  
2 that, and you guys objected to the State going in  
3 and instructing him to not do that.

4 So he hasn't done anything wrong. The State  
5 hasn't done anything wrong, you hadn't done  
6 anything wrong, I have. Here's where I'm going  
7 with this. That would have been something had the  
8 State purposely tried to elicit that given the law  
9 as I went over with you. That's not clear on  
10 whether that level of opinion can be offered.

11  
12 Clearly, Dr. Hughes can give an opinion about  
13 intoxication. I've already said that. The  
14 question was too intoxicated to drive, the next  
15 level of opinion. I'll offer the Defense a  
16 curative instruction if you want to ring the bell  
17 again.

18 You know, this is strategic consideration. I  
19 will instruct the jury if you wish to disregard  
20 that portion of his answer where he said that the  
21 Defendant was too intoxicated to drive or not fit  
22 to drive, something to that effect.

23 Now, if I do that, it's going to ring the  
24 bell twice on you and you know how that is. So  
25 that's a strategic concern. Do you want me to --

1 MR. JAFFE: May we have 30 seconds to talk?

2 THE COURT: Sure.

3 MR. JAFFE: Because I don't want to make the  
4 decision --

5 THE COURT: And I want to tell Dr. Hughes  
6 this, you haven't said anything wrong. This is a  
7 legal matter. It's about qualifications to answer  
8 certain topics and not others and you're fine.

9 MS. RICH: Judge, does he need to be here? I  
10 mean, he really needs to get in a car and go to the  
11 airport.

12 THE COURT: Well, I'm going to send him in a  
13 minute. I want to make sure that because of this  
14 ruling, somebody doesn't want to get another  
15 answer. That's what I want to make sure. I think  
16 he's going to be able to go in about two minutes.

17 MR. JAFFE: Yes, sir, we'd like that  
18 instruction.

19 THE COURT: Okay. We'll do it. Does either  
20 side need any further testimony from the doctor?

21 MS. RICH: No.

22 THE COURT: All right. Doctor, be careful  
23 going back.

24 (BRIEF RECESS)

25 THE COURT: So, Dr. Farley, what we do when we