

Damon Duva
April 03, 2025

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

SCOTT E. JONES,

Plaintiff,

vs.

Case No. 2:24-CV-11965

Hon. Nancy G. Edmunds

ST. CLAIR COUNTY, a Municipal
Corporation of the State of
Michigan, and ST. CLAIR COUNTY
SHERIFF MAT KING, in his
individual capacity, jointly
and severally,
Defendants.

_____ /

The Remote Deposition of DAMON DUVA,
Taken in Macomb County, Michigan,
Commencing at 11:02 a.m.,
Thursday, April 3, 2025,
Before Laura Ambro, CSR-5882.

1 APPEARANCES:

2

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10 Appearing remotely on behalf of the Plaintiff.

11

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19 Appearing remotely on behalf of the Defendants.

20

21 ALSO PRESENT (appearing remotely):

22 Scott Jones

23

24

25

Damon Duva
April 03, 2025

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Damon Duva
April 03, 2025

1 Macomb County, Michigan

2 Thursday, April 3, 2025

3 11:02 a.m.

4

5

DAMON DUVA,

6

was thereupon called as a witness herein, and after

7

having first been duly sworn to testify to the truth,

8

the whole truth and nothing but the truth, was

9

examined and testified as follows:

10

EXAMINATION

11

BY MS. MARZOTTO TAYLOR:

12

Q. Okay. Good morning.

13

A. Good morning.

14

Q. My name is Elizabeth. I represent Scott Jones. I'm

15

going to be asking you a series of questions today.

16

If you don't understand me, or if you'd like me to

17

repeat or rephrase, just let me know.

18

A. Okay.

19

Q. So, I'm just going to have you just go ahead and state

20

your full name for the record.

21

A. My name is Damon Duva.

22

Q. Okay. And you're currently employed with the St.

23

Clair County sheriff's office as a deputy?

24

A. That's correct.

25

Q. Okay. How long have you held that job?

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1 A. Twenty-five years.

2 Q. Okay. In your time, you know, that you've been
3 employed by the sheriff's office, have you held any
4 job title other than deputy?

5 A. I worked at the drug taskforce for a while. All that
6 is still is as a deputy. I'm right now assigned to
7 the secondary road patrol, which is still a deputy
8 position. So, I guess just always a deputy.

9 Q. And before you worked for St. Clair County, where were
10 you employed?

11 A. I worked at Oakland County sheriff's office as a
12 corrections deputy. And I worked at Capac police
13 department as a police officer.

14 Q. Let's start with Oakland county corrections
15 department. What were the years that you worked
16 there?

17 A. '99 to 2000 era. I was there for maybe six to eight
18 months total.

19 Q. Why did you leave there?

20 A. I got hired in at St. Clair County sheriff's office.

21 Q. And then you said there was another police department
22 that you worked for?

23 A. Yeah, a small department in our county. It's called
24 Capac PD or Capac city police department. I worked
25 there part-time while I was at the other place,

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1 corrections facility.

2 Q. Okay. So you worked -- you said it's called Capac?

3 A. Yeah.

4 Q. What does that stand for?

5 A. C-a-p-a-c. It's just a town.

6 Q. Can you spell it.

7 A. C-a-p-a-c.

8 Q. Okay. And you said you worked as a part-time police
9 officer there?

10 A. Yep.

11 Q. Okay. What were the years that you worked at Capac?

12 A. Same thing, '99 to 2000. I was only there six to
13 eight months. I took that job to get a certification
14 to be a policeman. So, that's why I took it.

15 Q. Why did you leave there?

16 A. Just no money and no full-time and just I obviously
17 wanted to find a better department.

18 Q. What's your educational background?

19 A. I have a bachelor's of science degree from Ferris
20 State University.

21 Q. Okay. When did you get that degree?

22 A. I graduated in '99.

23 Q. How long have you known Marcus King?

24 A. I've known Marc King 15, 20 years.

25 Q. How did you first come to meet him?

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1 A. I knew his brother from working with him. And then
2 Marc got hired on in our department and was in our
3 jail for a while, and met through them. Just through
4 work is how I met him.

5 Q. Okay. And you and Marc have been friends for quite
6 some time, right?

7 A. Yep.

8 Q. And you socialize with Marc outside of work?

9 A. I do.

10 Q. Okay. How regularly do you guys get together for, you
11 know, meals or events or other activities?

12 A. Probably every couple weeks.

13 Q. Okay. When would be the last time that you, you know,
14 met with him in a social capacity? The last time you
15 hung out?

16 A. Probably two to three weeks ago.

17 Q. Okay. What were you doing?

18 A. I am just trying to remember here.

19 Q. Sure. Go ahead. Take your time.

20 A. I think he stopped over for dinner at the house.

21 Q. Was your wife there?

22 A. Yep.

23 Q. And you call and text with Marcus?

24 A. I do.

25 Q. How frequently do you call and text with him?

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1 A. I talk with him probably every couple days. You know,
2 sometimes more; sometimes less.

3 Q. And you're talking about work activities as well as
4 non-work topics?

5 A. Correct.

6 Q. Were you calling and texting with him in the November
7 of 2022 timeframe?

8 A. Was I friends with him in November, is that what
9 you're saying?

10 Q. Yeah. You had the same kind of relationship in that
11 timeframe as you just described?

12 A. Nothing has changed, correct.

13 Q. Okay. Did you call or text with Marcus about his OWI
14 arrest in 2022?

15 A. I spoke with Marcus. I did not text him the night of
16 his OWI arrest. No, I did not.

17 Q. Not the night of, but you texted him in the November
18 timeframe about the arrest?

19 A. After the arrest, ma'am?

20 Q. Sure.

21 A. Sure.

22 Q. Yeah. And do you still have those texts?

23 A. I do not.

24 Q. Okay. Why don't you have them?

25 A. I think I switched carriers. It's been three years.

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1 I think I switched carriers on my phone and I've
2 gotten rid of most of them.

3 Q. Did you delete the texts?

4 A. I'm sure I've deleted some, yeah.

5 Q. Do you remember when you would have deleted them?

6 A. I don't.

7 Q. Okay. What was the carrier that you had in November
8 of 2022?

9 A. I think Verizon.

10 Q. And what's the carrier you have now?

11 A. I have Visible Verizon.

12 Q. Visible Verizon?

13 A. Uh-huh.

14 Q. And are those the only two carriers that you've had,
15 you know, between November '22 and now?

16 A. I believe so, yes.

17 Q. Okay. I am going to ask for -- well, let me ask you
18 this first: Do you have a work phone?

19 A. I do.

20 Q. Okay. Do you know the carrier of your work phone?

21 A. Yep. It's Verizon.

22 Q. Okay.

23 A. Well, no. I have no idea what the carrier is, to be
24 honest with you.

25 Q. You don't know who the carrier is for your work phone?

1 A. No. I'm sure the department knows. I don't know who
2 the carrier is.

3 Q. Did you have a work phone in November of 2022?

4 A. I did.

5 Q. Okay. Were you calling and texting with Marcus King
6 on your work phone in November of '22?

7 A. I was not.

8 Q. Okay. So, all of your an communications with Marc
9 King were on your personal cell phone?

10 A. Correct.

11 Q. I am going to ask for the cell phone number that you
12 used to communicate with them. But I can take that
13 off the record.

14 (Off the record at 11:10 a.m.)

15 (Back on the record at 11:10 a.m.)

16 MS. MARZOTTO TAYLOR: Back on the record.

17 BY MS. MARZOTTO TAYLOR:

18 Q. How long have you known Mat King?

19 A. I've known Mat King for probably around 20 years or
20 more.

21 Q. And how did you first meet Mat King?

22 A. Just at work.

23 Q. At work. And you and Mat have been friends also for a
24 long time, right?

25 A. We were acquaintances. We're friends, sure. But Marc

1 and I's relationship would be more than Mat and I's
2 relationship.

3 Q. That's fair enough. But you and Mat socialize outside
4 of work from time to time, right?

5 A. Yeah. We were partners for a while in the car. So we
6 have some history together.

7 Q. And you, from time to time, will get together with Mat
8 for meals, activities, and the like, right?

9 A. Correct.

10 Q. And you also call and text with Mat King, correct?

11 A. Not -- no, not really. I have. But I don't text --
12 like you're saying as on a friend level, not really.

13 Q. Okay. Have you ever?

14 A. Sure.

15 Q. Okay. And you stay in pretty close touch with him
16 given the working relationship that you all have?

17 A. Say that question one more time, please.

18 Q. Yeah. Do you stay in close touch with Mat King given
19 that, you know, you've worked with him for a long time
20 and he's now your boss?

21 A. As far as work and stuff, just as a boss employee. I
22 don't see him. I don't talk to him very much at all.
23 You don't usually talk to the sheriff, so.

24 Q. It's a pretty small office, right?

25 A. I'd say it's pretty good size, sure.

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1 Q. How often -- how many times a week do you see the
2 sheriff?

3 A. Sometimes -- I would say once every possibly two
4 months. I don't report to the office. I don't see
5 the sheriff.

6 Q. You don't remember report to the office?

7 A. No.

8 Q. Where do you report?

9 A. I take my car home. I start from my residence.

10 Q. So, when you start a shift, for example, you don't
11 necessarily come into the office, you just get in your
12 car and start your shift at the appointed time?

13 A. Check in with the radio, check in with my supervisor
14 on duty, and go do what I do.

15 Q. But you don't -- at the end of the shift, do you
16 report to the office?

17 A. No.

18 Q. Okay. So you're never going into the office?

19 A. I'm not saying never. You asked me how many times do
20 I see Mat King. I'll tell you maybe once every two
21 months.

22 Q. Yeah. And now I've kind of moved on to some other
23 questions about how your daily duties roll.

24 But I want to make sure we have a clear
25 record. So, when I'm asking a question, just go ahead

1 and let me finish the question so that you know what
2 you're answering and that our court reporter can make
3 a clean record, okay?

4 So, as of November 2022, what was the shift
5 that you were working?

6 A. 6A to 6P.

7 Q. Okay. So, in November of 2022, when you were ready to
8 start your shift at 6:00 a.m., did you report into the
9 office?

10 A. Is November 22 the date of the incident is what we're
11 talking about?

12 Q. Yeah.

13 MR. SHOUDY: I think she's saying November
14 of 2022 is what she's saying.

15 A. Can you rephrase the question. I'm sorry.

16 BY MS. MARZOTTO TAYLOR:

17 Q. Sure. So, I asked you in November of 2022 what shift
18 you were working. You said 6 a.m. to 6 p.m.?

19 A. Correct.

20 Q. My question is in November of 2022, when you were
21 ready to start your shift, did you report into the
22 office or did you just start your shift from your
23 residence?

24 A. Start from my residence.

25 Q. And then also in November of 2022, when you were done

1 with your shift, did you report into the office to
2 close out your shift, or did you just go home?

3 A. It all depends. I mean, throughout my shift, I
4 sometimes go to the office. You know, it's not like
5 -- you know, sometimes I go to briefing. Sometimes I
6 don't. It just all depends. There is no set way of
7 doing it. But I usually start from my house and
8 finish from my house.

9 Q. Okay. So, what are the circumstances that would bring
10 you back into the office kind of on a, you know,
11 case-by-case basis as you just described? Give me
12 some examples. You said a briefing might be one.
13 What else?

14 A. The bathroom, me to use the bathroom. Any type of
15 supplies that you'd need for your duties. You know,
16 papers, pencils, you know, stuff for the car,
17 paperwork that would need to be turned in. Any type
18 of new equipment. Maybe if the boss called you. I
19 mean, I could go on and on. All types of police
20 activity. How's that?

21 Q. I think we have some examples here --

22 A. Yeah.

23 Q. -- that I can understand.

24 Let's see here. So, going back to your
25 relationship with Mat King, did you text and call with

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1 Mat King in November of 2022 with your work phone or
2 your personal phone?

3 A. Personal phone.

4 Q. So, you were not using your work phone to communicate
5 with the sheriff?

6 A. No.

7 Q. Is there a reason for that?

8 A. I never use my work phone.

9 Q. Is there a reason for that?

10 A. I just never use my work phone.

11 Q. Okay. Are you like trying to not make a record of
12 your communications for work? Or why don't you use
13 it?

14 A. No. I just never do. I have trouble keeping this one
15 going, you know, as far as to work two phones. I just
16 always use my regular phone.

17 Q. Okay. So, you're texting and calling with Mat, the
18 sheriff, on your personal phone?

19 A. Uh-huh.

20 Q. Do you still have records of those calls and text
21 messages that you would have exchanged with him in
22 November of 2022?

23 A. I doubt it, no. I probably have gone through three or
24 four phones in the last -- I'm pretty hard on my
25 phones. So, there has been a lot of, you know, cases

1 where the phones have been busted too.

2 Q. Have you deleted call logs or text messages reflecting
3 communications between yourself and the sheriff in
4 November of 2022?

5 A. Oh, I'm -- hang on. There is something that came up
6 on the computer here. Okay, we're back on.

7 MS. MARZOTTO TAYLOR: Madame Court
8 Reporter, would you please read back my last question.

9 (The following portion of the record was
10 read by the reporter at 11:18 a.m.:

11 Q. "Have you deleted call logs or text
12 messages reflecting communications between
13 yourself and the sheriff in November of
14 2022?")

15 Q. I'm sure I have, yes.

16 BY MS. MARZOTTO TAYLOR:

17 Q. Okay. Do you remember when you would have deleted
18 those?

19 A. I don't.

20 Q. Is it possible you would have deleted them in the last
21 six months to a year?

22 A. No. They would have been longer than that.

23 Q. And your wife is also a St. Clair County deputy,
24 right?

25 A. Yes, ma'am.

1 Q. What's her name?

2 A. Carrie Duva.

3 Q. And how long has Carrie been with the sheriff's
4 office?

5 A. I think she got hired in in 2007 until now.

6 Q. What's her current job title?

7 A. She's a deputy sheriff.

8 Q. And has she always held that role?

9 A. She has.

10 Q. And she's friendly with Marcus King's wife, right?

11 A. She is.

12 Q. And is she also friendly with Mat King's wife?

13 A. She is.

14 Q. And you and your wife -- you know, we've kind of
15 covered this already -- but you and your wife will
16 socialize with Marc and his wife, correct?

17 A. We have, yes.

18 Q. And you and your wife will also socialize, from time
19 to time, with Mat King and his wife, right?

20 A. We have, yes.

21 Q. Have you been deposed before?

22 A. Yes.

23 Q. How many times?

24 A. I don't know the exact number. I can give you over
25 three.

1 Q. More than three?

2 A. Yep.

3 Q. More than five?

4 A. I don't know, ma'am. I can't remember, to be honest
5 with you, how many times I've been deposed.

6 Q. Okay.

7 A. I'm sure that's information you could probably find
8 though.

9 Q. The more than three times that you're thinking of, is
10 that in your role as a sheriff's deputy or in a
11 personal capacity?

12 A. Always in a role as a sheriff deputy.

13 Q. Okay. And you were involved in or named as a
14 defendant in a case involving the estate of a
15 plaintiff Kirby. Do you recall that case?

16 A. I do.

17 Q. And that involved you and some other sheriff's
18 deputies opening fire on a plaintiff during a traffic
19 stop, which led to his death?

20 A. Correct.

21 Q. Am I correct that that case resulted in a settlement
22 of about \$900,000?

23 A. I don't know the exact amount, to be honest with you.
24 I don't know.

25 Q. But that sounds family?

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1 A. I don't think it was that much, but I don't know the
2 exact amount. I mean, Mr. Shoudy would be able to
3 tell you.

4 Q. If that's what the court records say, are you
5 disputing that amount?

6 A. I'm not going to dispute it, no. You're asking my
7 opinion. I don't know the amount.

8 Q. You don't remember the amount?

9 A. No.

10 Q. Did you receive any discipline for your actions in
11 that case?

12 A. I did not.

13 Q. And do you remember being named as a defendant in a
14 case involving a plaintiff named Boco (phonetic)?

15 A. No. I mean, I guess I would need some more.

16 Q. Sure. As far as I can see on, you know, pay serve
17 court records, that was also the case where it was
18 alleged that you used excessive force against a
19 subject. Does that ring any bells?

20 A. Do you have a location or anything?

21 Q. I don't have that written down. But I believe it
22 involved you -- it was alleged that you used excessive
23 force leading to the subject, I guess, I think being
24 pushed to the ground and hitting his head or something
25 like that.

1 A. I don't remember that last name. I'm not saying it --
2 I just would need more. I don't recall.

3 Q. You're not disputing it, you just don't remember?

4 A. Correct.

5 Q. Okay. How many times have you been accused of
6 excessive force by residents?

7 A. Three.

8 Q. Okay.

9 A. I'm guessing three.

10 Q. What are the three times that you can think of?

11 A. Well, obviously the two that you are telling me about.
12 And there he is another one with a subject named
13 Jawaun (phonetic) Boyd.

14 Q. What happened in that case?

15 A. It was a drug raid that took place and he got injured
16 on a drug raid.

17 Q. Okay. And what was your alleged involvement there?

18 A. Well, he ran up the stairs. We ended up taking him
19 into custody and tackled him, and he got hurt during
20 the tackles.

21 Q. Did he file a lawsuit?

22 A. I believe he did, yep.

23 Q. Was that case settled?

24 A. I believe it was.

25 Q. Do you remember the amount?

1 A. That I don't know.

2 Q. Okay. So, with regard to the case involving the
3 subject that, you know, fell to the floor and hit his
4 head, and Mr. Boyd, did you receive discipline for
5 your involvement in either of those incidents?

6 A. I don't believe so, no.

7 Q. Okay.

8 A. Without checking my -- you know, I'll be honest, they
9 put stuff in our records. There could be some type of
10 counseling memo or written. To my knowledge, I don't
11 remember that happening. But that's something they
12 could check my file on.

13 Q. Okay. Let me just exhaust your memory on this. So,
14 going back to the Kirby matter, did you receive verbal
15 counseling with regard to your actions in that
16 incident?

17 A. No.

18 Q. And did you receive any written write-up that you can
19 recall?

20 A. No.

21 Q. Any suspension that you can recall of your employment?

22 A. We were suspended with pay until the investigation was
23 over.

24 Q. Sure. I'm talking about a disciplinary suspension?

25 A. No.

1 Q. So, with regard to Boyd, did you receive verbal
2 counseling for your involvement?

3 A. I don't believe so, no.

4 Q. Okay. Any written write-up that you recall?

5 A. I don't believe so, no.

6 Q. Any suspension?

7 A. No.

8 Q. And then for the Boco case, I know you said your
9 memory is kind of hazy on that. I'm going to ask you
10 anyway to make my record. With regard to that case,
11 or that allegation of excessive force, do you recall
12 getting any verbal counseling?

13 A. No.

14 Q. Any written write-up?

15 A. No.

16 Q. Any suspension?

17 A. No.

18 Q. Has your employment with the department, or the office
19 rather, has your employment ever been terminated?

20 A. No.

21 Q. Do you remember approximately what the year was on the
22 Boyd case?

23 A. I don't. I can give you I was out at the task force
24 from 2002 to 2006.

25 Q. So, somewhere in that timeframe?

1 A. Somewhere in that group, yeah.

2 Q. Have you ever received discipline during your
3 employment?

4 A. I have a counseling memo that I got for a traffic
5 citation that got accidentally given to the wrong
6 person via our computer system.

7 Q. And so by that you mean a citation was issued to the
8 wrong driver?

9 A. So, I entered the vehicle into our computer system,
10 and it automatically generates the citation. The
11 person that got the citation was the registered owner.
12 However, the driver was not the registered owner. So,
13 I call it a technical issue. But I did get a -- not a
14 write-up, but I think it's a verbal counseling or a
15 counseling memo on it.

16 Q. And what was alleged that you did wrong there?

17 A. I guess I didn't take the proper procedures to double
18 check the ticket so that that person, you know,
19 wouldn't have got the citation.

20 Q. And when did you receive that verbal counseling?

21 A. Last year, two years ago.

22 Q. And who gave you that verbal?

23 A. Sergeant Schwartzkopf.

24 Q. And was Sergeant Schwartzkopf your supervisor at the
25 time?

1 A. He was.

2 Q. Any other discipline that you've received?

3 A. No, ma'am.

4 Q. No other discipline you can recall in the 25 years
5 you've worked there?

6 A. That was the first thing I ever got was from Sergeant
7 Schwartzkopf. I wasn't happy about it, due to the
8 fact it was a typo, and I write about a hundred
9 tickets a month. So, people make mistakes.

10 Q. So, that stuck in your mind as the first time you'd
11 been disciplined in your 25 years?

12 A. Yes.

13 Q. What did you do to get ready for your deposition
14 today?

15 A. Took a shower and came in here.

16 Q. Okay. Did you look at any documents to get ready?

17 A. Sure. My report, my supplemental report.

18 Q. When did you look at your supplemental report?

19 A. I think I got it yesterday from management and I
20 looked at it today.

21 Q. Who from management gave it to you?

22 A. I had to go up and get it from the captain because
23 it's up there. So, that's where I got it from.

24 Q. Okay. Did you talk to the captain about your
25 deposition?

1 A. I talked to him about when the time was and where I
2 was going to get it done.

3 Q. Okay. Did you talk to him about what you might be
4 asked?

5 A. Did he talk to me about what might be asked or did I
6 talk to him about what might be asked?

7 Q. Yes.

8 A. No, we didn't talk about it. I mean, we both knew you
9 can't really talk about it.

10 Q. Was there any discussion at all about, you know, what
11 your testimony might be or what the questions might
12 be?

13 A. No.

14 Q. Okay. Did you look at any other documents?

15 A. Literally just my supplement. I didn't read the
16 report. I didn't look at any car videos. I didn't
17 look at anything.

18 Q. Okay. Did you talk to anybody else to get ready to
19 give testimony today?

20 A. I talked to my attorney, Mr. Shoudy.

21 Q. Other than Mr. Shoudy, anybody else?

22 A. My wife knew what I was doing today. But that's about
23 it. And we didn't talk about the case. She just said
24 good luck.

25 Q. Did you talk to Marcus?

1 A. I did not. I mean, have we talked about it, yes. But
2 I didn't talk about it with him today.

3 Q. I understand you didn't talk today, but you and Marcus
4 have discussed the fact that you've been, you know,
5 noticed for a deposition and that you would be giving
6 testimony?

7 A. Yeah, I have.

8 Q. What did that conversation entail?

9 A. I basically said to him hey, thank you for dragging me
10 through your shit that you did. I appreciate this.

11 Q. Okay. And what did he say?

12 A. You know, what's he going to say. Okay, it happened.
13 We have that kind of humor, if you will.

14 Q. Yeah, I kind of grasped that from the way you said it.

15 Did you talk about, you know, what you
16 might be asked?

17 A. I mean, we kind of figured what we knew we were going
18 to be asked.

19 Q. I mean, I understand you kind of figured, but did you
20 discuss it with him?

21 A. No.

22 Q. Did you talk about how you might answer questions or
23 what you might say about, you know, the events?

24 A. No.

25 Q. Did you talk to the sheriff about your testimony?

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1 A. When I went up to get the paperwork from the captain,
2 he advised that he had just gone and did his. But we
3 didn't talk about what went down with his, or what
4 went down with Captain Pohl's, or anything like that.
5 Just that hey, you're going to be there a while, and
6 that was it.

7 Q. And you learned that Captain Pohl had been deposed as
8 well?

9 A. Correct.

10 Q. Okay. How did you learn that?

11 A. He told me.

12 Q. When did he tell you that?

13 A. When he gave me the report.

14 Q. Okay. What did you guys talk about with regard to his
15 deposition?

16 A. Nothing.

17 Q. Well, obviously something because there was some --
18 you learned some information about it. So, what was
19 that about?

20 A. He said that I got deposed and I was there for six
21 hours. That's about what we got done. And then Mat
22 said the same thing.

23 Q. And Mat said the same thing?

24 A. Uh-huh.

25 Q. Did you talk about what either of them had testified

1 to?

2 A. No.

3 Q. Did you ever read their deposition transcripts?

4 A. No.

5 Q. Were you asked to produce documents in this case?

6 A. No.

7 Q. No one asked you to, you know, go through your records
8 and look for relevant documents or records you might
9 have about -- you know, that are relevant to the
10 allegations here?

11 A. I guess I don't understand what you're saying there.

12 Q. I'm asking if anyone ever asked you to go through your
13 records and look to see if you had any documents that
14 were pertinent to this case?

15 A. No.

16 MR. SHOUDY: Just for the record,
17 Elizabeth, one thing I was given yesterday, which will
18 be sent to you here shortly, is a printout from Lapeer
19 that he provided me, which I have on my list of things
20 to send to you. If you need it for this depo, I'll go
21 ask my secretary to e-mail it to you right now. I
22 just asked her to scan it this morning.

23 MS. MARZOTTO TAYLOR: Yeah, if you wouldn't
24 mind doing that, I'd appreciate it.

25 MR. SHOUDY: Okay. If you -- I don't know

1 how long you're going to go, but if you want me to do
2 it during a break, I can.

3 MS. MARZOTTO TAYLOR: Well, let me just ask
4 the witness a couple questions about the document that
5 you're referring to.

6 BY MS. MARZOTTO TAYLOR:

7 Q. So, you know, you heard Mr. Shoudy make reference to a
8 document from Lapeer county?

9 A. Sure.

10 Q. Okay. Is that a document that you provided him?

11 A. Correct.

12 Q. Can you describe the document.

13 A. Yeah. When I went and picked Mr. King or Marc up at
14 the Lapeer county jail, they gave me a booking card
15 with his information on it.

16 Q. Okay. And you said you received that in the early
17 morning of November 6 of 2022?

18 A. Yes, correct.

19 Q. When you went and picked him up from Lapeer?

20 A. Yes.

21 Q. And where has that document resided between when you
22 received it and, you know, when you gave it to Mr.
23 Shoudy?

24 A. Probably in my patrol car.

25 Q. Where in your patrol car?

1 A. In my files.

2 Q. Can you describe that for me.

3 A. Yeah. I have an accordion style, you know, folder
4 that I keep my stuff in.

5 Q. What kind of stuff do you keep in there?

6 A. Notes on cases, paperwork for, you know, other stuff
7 that's taken place. You know, any type of police
8 paperwork that we would have that we would have to
9 fill out or something of that nature.

10 Q. Okay. And so the booking card from Lapeer has been in
11 that accordion file since November of '22?

12 A. Correct.

13 Q. And when did you give to it Mr. Shoudy?

14 A. Yesterday. We had deposition prep yesterday, and I
15 brought whatever I had, so.

16 Q. Did you give him any other documents?

17 A. That was it.

18 Q. Okay. Did you look through the accordion file in your
19 car for anything else that might be relevant to the
20 events of November 6?

21 A. There was nothing in there besides that.

22 Q. Okay. Did you give Mr. Shoudy any other documents?

23 A. No.

24 MS. MARZOTTO TAYLOR: So, why don't we just
25 take like a five-minute break and you can send me that

1 document before I get into my next line of questions.

2 MR. SHOUDY: That's fine.

3 (Off the record at 11:35 a.m.)

4 (Back on the record at 11:46 a.m.)

5 MS. MARZOTTO TAYLOR: All right. Back on
6 the record.

7 BY MS. MARZOTTO TAYLOR:

8 Q. So, Deputy Duva -- well, I guess I'll just ask you
9 this: Do you recall that Marcus King was arrested for
10 OWI on November 6 of 2022?

11 A. Correct.

12 Q. And it was in the early morning hours. So, you know,
13 night of November 5th, early morning of November 6th.
14 And you were involved in the arrest, right?

15 A. I was not involved with the arrest.

16 Q. Okay. But you played some role, right?

17 A. I played a role, but I was not involved in the arrest.

18 Q. Okay. What was the role that you played?

19 A. I went and picked Marc King up from Lapeer County jail

20 and brought him back to St. Clair County jail.

21 Q. Do you recall learning what Marcus's PBT results were
22 upon his arrest?

23 A. Which part of his arrest, ma'am?

24 Q. Well, the scores were the same on the scene and when
25 he got to Lapeer County. So, I guess it doesn't

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1 matter. So, do you recall learning what the results
2 of the PBT test were?

3 A. When I picked him up I had no idea what his PBT
4 results were. And then I believe I did see that he
5 had blown an 18, or something of that nature.

6 Q. Okay. How did you learn that information?

7 A. I really don't remember if it was on the sheet, or
8 somebody advised me during the conversations that I
9 had prior. But I don't recall how I found out.

10 Q. Okay. What's the sheet you're referring to?

11 A. The booking sheet. I don't even know if it was on
12 there.

13 Q. And is the booking sheet the document that you gave
14 your counsel yesterday?

15 A. Correct.

16 Q. Okay. So, if the PBT results do not appear on the
17 booking sheet --

18 A. Yep, I see that right now. I'm looking at it. It's
19 not on here.

20 Q. So, I'm going to ask that you don't look at any
21 documents, unless I ask you to.

22 A. Okay.

23 Q. Because, you know, you're not permitted to have any,
24 you know, assistance or look at any documents while
25 I'm asking you questions.

1 MS. MARZOTTO TAYLOR: So, Todd, I'm just
2 going to ask that, you know, nothing is in front of
3 this witness while I'm asking him questions.

4 MR. SHOUDY: Yeah, nothing has been in
5 front of him. So, if you want him to look at
6 document, let us know.

7 MS. MARZOTTO TAYLOR: Okay. I will do
8 that.

9 BY MS. MARZOTTO TAYLOR:

10 Q. So, if the PBT results do not appear on the, I'm going
11 to call it the booking sheet that you gave to your
12 counsel yesterday, how would you have learned that
13 information?

14 A. I had talked to -- I don't recall how I got the
15 information. But I had talked to Lieutenant Jones
16 there and I had talked to Sheriff King prior. And I
17 believe it might have been brought up in one of those
18 two conversations.

19 Q. You also talked to Marcus King, I assume, about the
20 circumstances of the arrest?

21 A. I did, yes.

22 Q. Possible you learned about it from him?

23 A. I don't think so because I don't think he knew.

24 Q. You don't think he knew what his PBT results were?

25 A. I don't think so. Not the time when I picked him up.

1 Q. Did you discuss the PBT results after you picked him
2 up, with Marcus? So, at any time after you picked him
3 up, did you and Marcus ever discuss the PBT results,
4 what the number was?

5 A. I'm sure we did.

6 Q. Okay. And you also talked to Deputy Pokriefka in the
7 early morning of November 6, correct?

8 A. That's correct.

9 Q. And he knew what the PBT results were, correct?

10 A. It's possible he could have told me too. I just don't
11 remember how I found out.

12 Q. I understand. I'm just trying to get the possible
13 list of sources here.

14 A. Sure.

15 Q. And the score, the 0.183, that's a very high score,
16 correct?

17 A. It's a high BAC, yeah.

18 Q. And in fact, it's so high that that can result in
19 enhanced criminal penalties, right?

20 A. Are you referring to like a super drunk charge?

21 Q. I am.

22 A. Okay. Yes.

23 Q. Did you ever discuss that with Marcus?

24 A. I did not.

25 Q. So, how did you first learn that Marcus had been

1 arrested?

2 A. I got a call from Phil Pokriefka.

3 Q. Okay. When did you get that call?

4 A. Like 2:30, 3:00 in the morning, something of that
5 nature.

6 Q. Okay. And what did he tell you?

7 A. I was at my house sleeping.

8 Q. And what did he tell you?

9 A. He called up and said that Marc had gotten arrested
10 for drunk driving and that he was going to Lapeer
11 County jail. And Phil is part of the union. He's a
12 union vice president. And I was the president at the
13 time. So, that's why he was calling me.

14 Q. Okay. Let me ask you about your role with the union.
15 In November of 2022, you were the union president you
16 said?

17 A. I was.

18 Q. Okay. And how long did you hold the role of union
19 president?

20 A. Two, three, years. I really don't even know how long.

21 Q. Do you remember the range of years that you held the
22 position?

23 A. I was in the union for 13 and a half years in some
24 type of capacity. As far as the -- two, three years,
25 something like that.

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1 Q. I understand that. I want to know if you remember the
2 actual years that you were the president?

3 A. 2022, 2023, and I think 2021. But I don't know -- you
4 know, those might not be full years.

5 Q. I understand. But '21 to '23 timeframe is the range
6 we're talking about when you were the union president?

7 A. Correct.

8 Q. Okay. And before that, did you hold any other role in
9 the union other than as a union member?

10 A. I was the vice president for I think a year, year and
11 a half. And then I was the secretary and I was the
12 treasurer.

13 Q. Okay. You said you were the vice president for about
14 a year. Was that immediately prior to you becoming
15 the president?

16 A. It was.

17 Q. And how long where you the secretary?

18 A. Some years. I don't know. I'll give you at least two
19 and a half, three years. It could be more. It could
20 be less.

21 Q. Your best guess.

22 A. That's my best guess.

23 Q. Understood. And was that immediately prior to you
24 becoming the vice president?

25 A. Correct.

1 Q. Okay. And how long were you the treasurer?

2 A. Same thing. About three years I think.

3 Q. Okay. And did you hold the treasurer role immediately
4 before you were the secretary?

5 A. I did.

6 Q. So, treasurer, secretary, vice president, president
7 was, you know, a trajectory?

8 A. That's correct.

9 Q. Okay. And in your role as union president, what were
10 your duties with regard to the union?

11 A. What were my union duties?

12 Q. Yes.

13 A. If somebody -- I was a direct link to our union being
14 POAM or a union rep that was assigned to us. I
15 assisted in helping deputies if they had complaints.
16 Filing stuff with the department in regard to
17 grievances or issues. If there was a deputy that was
18 hurt, we would assist them as far as financial or what
19 we could do as a board. We had support groups set up.
20 If there were deputies that were at need, you know, we
21 would assist them. Just kind of all aspects of that.

22 Q. Okay.

23 A. If you have a specific question, let me know.

24 Q. Yeah, my specific question was what your duties were.
25 And I think you gave me the list of what you can

1 recall.

2 You said you were the link to POAM. What
3 do you mean by that?

4 A. Well, if we had something that we needed to use the
5 union for at the department, like I would be the one
6 that would contact them or contact, you know, our
7 union rep, if we needed it. If somebody had done
8 something, you know, we would contact them.

9 Q. What do you mean if someone had done something?

10 A. If there was discipline. If there was a grievance.
11 If there was something that needed to be handled with
12 union with management, they would be like our liaison.

13 Q. So, you would then reach out to POAM to assist with
14 whatever was going on with the officer?

15 A. Correct.

16 Q. And then the POAM would step in and represent the
17 officer?

18 A. Give us information. Help the officer out, whatever.
19 Give us counsel.

20 Q. Okay. So, why did Pokriefka call you to tell you that
21 Marcus King had been arrested?

22 A. He called me because he wasn't sure why he went to
23 Lapeer County and was wondering why we couldn't sit
24 with Marc during the drunk driving.

25 Q. Okay. The union doesn't play any role in an arrest if

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1 the deputy is arrested? The union has no formal role
2 in that process, correct?

3 A. As far as the arrest?

4 Q. Yeah.

5 A. Yeah, not -- once the arrest is over, they have some
6 stuff. But during the arrest, no.

7 Q. Okay. And there is nothing in the collective
8 bargaining agreement that gives deputies any, you
9 know, any special rights or privileges with regard to
10 an arrest, correct? Nothing that you know of?

11 A. Can you rephrase the question. I don't understand
12 what you're saying.

13 Q. Sure. Let me ask a prefatory question first. You
14 were the president of the union in November of 2022?

15 A. Uh-huh.

16 Q. Were you familiar with the union contract that was in
17 place at that time?

18 A. I was familiar with it, sure. Did I know it
19 completely, no.

20 Q. Right. But you were familiar with its contents
21 because you were the union president?

22 A. Correct.

23 Q. So, as far as you know, being the union president,
24 nothing in the union contract, that you can think of
25 sitting here today, giving deputies any special rights

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1 or privileges in the event that they are arrested?

2 A. No. It was kind of an unwritten rule that we had with
3 management.

4 Q. Nothing in the union contract though, right?

5 A. Nothing in the union contract, right.

6 Q. So you get the call from Pokriefka. He tells you that
7 he's been arrested and taken to Lapeer County jail.

8 Did Pokriefka tell you anything else?

9 A. That's all he had known.

10 Q. Okay. And what did you do next?

11 A. I said okay. I says is there any reason we can't sit
12 with him. He says well, I don't know. I said all
13 right, who is the on-duty supervisor. And he said it
14 was Lieutenant Jones. So, I made a call to Lieutenant
15 Jones.

16 Q. Okay. And about what time did you call Jones?

17 A. It would have been 3 in the morning, 2:30, 3:00 in the
18 morning when I got the call. It was within a minute
19 or two of that.

20 Q. How long was your conversation with Pokriefka?

21 A. Two, three, four, minutes.

22 Q. And how did Pokriefka get the information about Marcus
23 getting arrested?

24 A. I think he got the information from Deputy Schoof.

25 Q. And Schoof was one of the officers at the scene

1 involved in making the arrest?

2 A. Correct.

3 Q. Did you ever learn that Marcus King had called
4 Pokriefka and told him that he had been arrested?

5 A. No, I never knew that.

6 Q. So, you called Jones. The conversation with Jones,
7 what did that entail?

8 A. I said Scott, I heard Marc got picked up for drunk
9 driving. He said he did. He goes yeah, he's in
10 Lapeer County jail. I asked him why he's in Lapeer
11 County jail. And he said something in regards to like
12 nepotism with his brother is what I assumed. And I
13 said is there any reason we can't go pick him up. And
14 I believe I asked him if he had called management.
15 And he said he didn't get ahold of them. So, I said
16 okay.

17 Q. Okay. And that was the end of the conversation?

18 A. Yep.

19 Q. And then what do you do next?

20 A. I knew I wasn't getting anywhere with Lieutenant
21 Jones. So I made contact with Captain Pohl. And then
22 I had made contact with Undersheriff Spedafore. And
23 then I made contact with Sheriff King.

24 Q. So, you wanted to go get Marcus out of Lapeer?

25 A. I did.

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1 Q. So, you said that your first call was to -- after
2 speaking to Jones, your first call was to who?

3 A. Captain Pohl.

4 Q. Did you talk to him?

5 A. No.

6 Q. Okay. So, you called but he didn't pick up?

7 A. Correct.

8 Q. And you left a voicemail?

9 A. No.

10 Q. Okay. After Pohl didn't pick up, then you call who?

11 A. Spedafore, chain of command.

12 Q. Okay. Fair enough. And did Spedafore pick up?

13 A. Nope.

14 Q. Did you leave him a voicemail?

15 A. I did not.

16 Q. And what's your next call?

17 A. And then I called the sheriff.

18 Q. About what time do you think you called the sheriff?

19 A. From the time -- I don't know the exact time, but from
20 the time Phil Pokriefka called, until the time I
21 talked to Jones and probably made contact with the
22 sheriff was all within about 15 to 20 minutes.

23 Q. Okay. So, you call the sheriff?

24 A. He doesn't answer.

25 Q. I'm sorry.

1 A. He doesn't answer.

2 Q. The first time you called him, he didn't answer?

3 A. Correct.

4 Q. Did you call him back?

5 A. No. He had called me back.

6 Q. Okay. Did you leave him a voicemail when you called?

7 A. I did not.

8 Q. Okay. So, he called you back. How long do you think
9 between when you called him to when he called you
10 back?

11 A. Maybe five minutes or so, maybe ten. I don't know
12 exactly. A short time.

13 Q. So, he calls you back. What do you say?

14 A. He calls me back. He goes what's going on. Because
15 obviously I'm calling him at 3 or 3:30 in the morning.
16 So, he knows that something is obviously going on. I
17 said hey, Marc got arrested for drunk driving. I says
18 he's down in Lapeer County jail. I go is there any
19 way that I can go down and reference the union and sit
20 with him until he sobers up. I go I'm not sure why
21 he's in Lapeer County jail. And he goes well, this is
22 the first I've heard of it. Let me make a call and
23 I'll call you back.

24 Q. Did he tell you who he was going to call?

25 A. I had told him I talked to, I think, Jones. And so

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1 I'm assuming he knew. Because he knows his shift, who
2 his lieutenant was at the time. So, I'm assuming he
3 was going to call him.

4 Q. So, you asked if you could go get Marc?

5 A. I did. I said is there any reason that we can't. And
6 he said let me find out what's going on.

7 Q. So, does he eventually call you back?

8 A. Yeah. He calls me back, I don't know, five, ten
9 minutes later.

10 Q. Did he tell you who he had spoken to?

11 A. He called me up and ad he said go ahead and pick him
12 up and bring him back to the office. And I said okay.
13 I'm assuming he talked to Jones. I don't remember if
14 he specifically said I talked to Jones. I don't know.

15 Q. Okay. Did he tell you anything about his conversation
16 with Jones?

17 A. Our conversation was very short. No, he did not get
18 into the dynamics of the conversation.

19 Q. And you were not working that midnight shift that
20 began, you know, midnight on the 6th?

21 A. I was not, no.

22 Q. When did your next shift start?

23 A. I started as soon as the sheriff told me to go pick
24 him up.

25 Q. When was it supposed to start?

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1 A. 6:00 in the morning.

2 Q. So, you said you started as soon as the sheriff told
3 you to go and pick him up?

4 A. That's correct.

5 Q. So it's, you know, 3, 3:30 a.m. at that point?

6 A. Somewhere around there. I'm not sure on the exact
7 time, but that sounds about right.

8 Q. Okay. And did you get paid for those hours between 3
9 and 6 a.m.?

10 A. I did.

11 Q. And you got paid for the rest of your shift from, you
12 know, 6:00 a.m. to 6 p.m. on November 6th?

13 A. I think I only worked a 12 hour. Like a 3 to 3.
14 Whatever I came into I worked, I think, just a 12-hour
15 shift. So, my shift started earlier.

16 Q. So, let's say you started at 3. You said you would
17 have worked 12 hours from whenever you began, right?

18 A. Yes.

19 Q. And you got paid for that full 12-hour shift, right?

20 A. Correct.

21 Q. And am I correct that you're paid through a state
22 police grant?

23 A. I am.

24 Q. And does that grant have certain reporting
25 requirements that you're supposed to follow?

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1 A. It does. But I also follow what the sheriff says as
2 well.

3 Q. Understood. But am I correct that with regard to the
4 grant and, you know, with regard to the sheriff's
5 department, there is a requirement that you fill out
6 daily reports with your activities?

7 A. Is it required? I keep a log with the state of my
8 traffic crashes and tickets. They don't see my daily
9 logs, no.

10 Q. But you do keep a daily log?

11 A. I do keep a daily log, sure.

12 Q. And is that required by the sheriff's office or
13 sheriff's department?

14 A. It is.

15 Q. How many OWI arrests do you think you've done in 25
16 years?

17 A. I have no idea. A lot. I mean, I can't -- you want
18 me to have a number. I have no idea, ma'am. I will
19 give you more than a hundred. How's that.

20 Q. More than a hundred. Fair enough. Are you doing OWI
21 arrests on a weekly basis?

22 A. No.

23 Q. On a monthly basis I assume?

24 A. Sometimes not even on a monthly basis. It all
25 depends, you know.

1 Q. But it's a regular part of your activities as a
2 sheriff's deputy?

3 A. It's part of being a deputy sheriff, sure.

4 Q. And going to jail is a standard consequence of being
5 arrested for OWI, right?

6 A. Not necessarily a standard. I mean, there are so many
7 different ways you can -- yeah, you can go and get
8 your blood. You can go and get your breath. Yes, you
9 can go to jail. You can be released. There is --
10 yeah, I mean there is more than just a cut dry thing.

11 Q. I understand. I'm talking about someone who is
12 stopped, pulled over, and has a breathalyzer test that
13 is over the legal limit. So in that scenario, going
14 to jail is a pretty standard consequence, correct?

15 A. Sure.

16 Q. So, after you have your conversation with the sheriff,
17 he tells you to pick him up, bring him back to the
18 office, what is the next thing that happens with
19 regard to your involvement in the incident?

20 A. I go down to Lapeer County jail and pick Marc up.

21 Q. Okay. So you arrive at Lapeer County jail. What's
22 the first thing you do?

23 A. I pull into the sally port.

24 Q. What's the next thing you do?

25 A. I walk into the booking area of the jail.

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1 Q. Okay.

2 A. I talk to the on-duty supervisor that's down in the
3 jail. There is a sergeant.

4 Q. Okay. Do you remember who that was?

5 A. No idea.

6 Q. Okay. But do you have a specific recollection of
7 talking to the on-duty sergeant?

8 A. I do.

9 Q. Okay. And what did that conversation entail?

10 A. I basically just said I'm her to bring Marc King back
11 to St. Clair county.

12 Q. Okay. What did this sergeant say?

13 A. He goes I figured. He goes it's kind of weird that
14 he'd be down here to begin with.

15 Q. And was there any other discussion with the on-duty
16 sergeant?

17 A. That was about it.

18 Q. Okay. So, what's the next step in the process of
19 getting Marc King?

20 A. One of the correction deputies goes and gets Marc out
21 of the cell. And they, you know, put his clothes on.
22 It's a little different than our place. His stuff is
23 all right there. They put his stuff on, and gives me
24 the booking card, and we leave.

25 Q. What do you mean put his stuff on?

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1 A. Well, his shoes and his jacket.

2 Q. Did he have personal effects, like a cell phone,
3 wallet, keys, that kind of thing?

4 A. I don't recall to be honest with you.

5 Q. Okay.

6 A. I don't know if he had his cell phone with him or not.
7 I don't know.

8 Q. So, you don't know whether -- okay. Well, let me just
9 ask you this way: Did you take possession of Marcus
10 King's personal effects upon, you know, going to get
11 him from Lapeer County?

12 A. Well, once we got him out of the items -- or out of
13 the jail there, I can't remember if his cell phone was
14 with him or not is what I'm saying. I don't know. He
15 had a jacket and some shoes. You know, whatever was
16 on the booking card I'm sure would have been what
17 would have been in his property. And I'm sure that
18 the deputies that took him in would have had all of
19 that information as well. I don't know. I can't
20 remember.

21 Q. Was Marcus given back his property?

22 A. Was Marcus given back his property. At the jail?

23 Q. Yeah. At Lapeer County jail.

24 A. Yes. I remember his shoes and his jacket. Yeah, he
25 put those on.

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1 Q. But you don't remember if he had a cell phone or a
2 wallet that was given back to him?

3 A. I don't remember. I'm not saying he didn't. I'm just
4 saying I, right now, don't remember.

5 Q. Okay. So, I'm going to ask you this question: Do you
6 have a specific recollection of taking possession of
7 any of his personal effects like a cell phone or a
8 wallet or keys?

9 A. I don't remember, that is what I'm saying.

10 Q. You don't remember?

11 A. I don't remember.

12 Q. Okay. Do you recall that Lapeer County had a hold on
13 Marcus because his BAC was so high?

14 A. No. They never said that to me.

15 Q. Okay. If I have a document from Lapeer County that
16 reflects that there was a hold for a high BAC, you're
17 not disputing that, are you?

18 A. No, they never said anything to me. But if you have a
19 document that says that, I'm sure the document is
20 legit.

21 Q. So, you know, Marc puts his shoes and his jacket back
22 on. What's the next thing that happens?

23 A. We go out to the patrol car.

24 Q. Okay. And he's in the front seat with you?

25 A. Correct.

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1 Q. Did you have your dash cam on for the drive?

2 A. I did not.

3 Q. Did you have your body cam on when you were
4 interacting with him?

5 A. I did not.

6 Q. How long did it take to get back to the office?

7 A. I'm trying to think. Lapeer is 58 miles I think, or
8 something like that. I mean, I got on 69. I drove
9 back to the Wadhams exit and got off. Took Ravenswood
10 down to the office, if I remember right. But the
11 time, I'm sure 45 minutes or something like that, 50
12 minutes. I mean, there wasn't much traffic obviously.
13 It was early in the morning.

14 Q. Right, yeah. So, your best guess, 45 to 50 minutes.
15 And I assume there was conversation with Marcus in the
16 car during the drive, correct?

17 A. Yeah. There wasn't a ton, but there was some.

18 Q. What do you remember from that conversation?

19 A. Just that, you know, he was upset with himself. That,
20 you know, he knew better. His wife, he was concerned
21 about his wife obviously. We talked about that. And
22 then I just consoled him and told him hey, hang in
23 there. We'll get through this. You know, it sucks.
24 But, you know, that is basically about it. We didn't
25 get into what had really occurred as far as on the

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1 stop or whatever. It seemed pretty self-explanatory.

2 Q. Okay. When you were at the Lapeer County jail, did
3 you see the cell that he was being held in?

4 A. I did.

5 Q. Okay. Did you make any observations about the cell
6 that he was being held in?

7 A. Yeah. It was a pretty shitty cell. I'll be honest
8 with you. It was freezing in there. It had windows.
9 I remember he was shivering real bad when I got there.
10 He's like man, I'm freezing. And they wouldn't give
11 him a blanket. And then his shoes and his stuff, like
12 we would bag it up. They had it all in front of him,
13 in front of his cell there. I just remember he was
14 really, really cold.

15 Q. Okay. Did you -- well, I'll follow up on that later.

16 You said Marcus told you that they wouldn't
17 -- that the Lapeer County jail refused to give him a
18 blanket?

19 A. That's what he said. He was wanting another blanket.

20 Q. Oh, so he had a blanket, but he wanted another one?

21 A. He had to sit on it. There was no benches. You just
22 sat on the floor.

23 Q. And he wasn't with -- you know, held with general
24 population, right?

25 A. There was people all around him, yeah.

1 Q. There were people in the cell?

2 A. Yes.

3 Q. How many?

4 A. I don't recall to be honest with you. The jail goes
5 like -- or the cells go on an L there. And there were
6 people throughout the whole cell.

7 Q. So, is it one cell with multiple people in it or --

8 A. I think there was a couple cells with multiple people
9 in it.

10 Q. So, no one was in the same cell with Marcus?

11 A. I don't recall. Because I walked up to the door. The
12 corrections deputy had pulled him out. And he was
13 coming out of the door. But the cell was back in
14 still and it was dark obviously, because it was
15 nighttime.

16 Q. No other person in the cell with Marcus that you can
17 recall sitting here today?

18 A. I can't say that. There could have been somebody else
19 in the cell. I can't say that.

20 Q. I understand that you think that hypothetically there
21 could have been. But sitting here today, you don't
22 remember seeing someone else in the cell with Marcus?

23 A. I remember that the corrections deputy pulled Marcus
24 from the cell. There was a bunch of people in the
25 cells. There was a bunch of clothes out in front of

1 the cell where he was standing. Meaning not just his
2 clothes and shoes, but somebody else's. And I didn't
3 see in the cell.

4 Q. You didn't actually see inside the cell that Marcus
5 was being held in?

6 A. It was a deep cell, correct.

7 Q. So, you didn't see inside the cell that Marcus was
8 being held in?

9 A. Correct.

10 Q. Okay. So, if you didn't see inside the cell that
11 Marcus was being held in. I'm going to re-ask you the
12 same question that I asked you previously, which is
13 sitting here today, you have no recollection of seeing
14 another person in the cell with Marcus; is that right?

15 A. I saw the corrections deputy remove Marcus from the
16 cell.

17 Q. Sir, you're not answering my question. I'm asking you
18 something really specific and I'm trying to get a
19 straight-forward answer from you. So, I'll ask you
20 again. Sitting here today, do you have a specific
21 recollection of seeing another human being being held
22 in the same cell with Marcus; yes or no?

23 A. I saw Marcus in the cell.

24 Q. And no one else, correct?

25 A. I can't say that. I saw Marcus in the cell.

1 MR. SHOUDY: She's asking did you see any
2 other person in the cell?

3 A. I didn't go in the cell. So, all I saw was him come
4 out of the door.

5 BY MS. MARZOTTO TAYLOR:

6 Q. I'm not asking if you went in the cell, sir. I don't
7 know why you're having difficulty telling me that
8 there were no other people in the cell.

9 A. I'm not trying to be difficult. You're asking me
10 could -- I feel like there was possibly some people in
11 the cell. But I can't give you a for sure answer.
12 You want me to say for sure nobody was in there. I am
13 not for sure that somebody was not in there. I don't
14 know that.

15 Q. I'm asking you something different. So, just listen
16 to my question, okay?

17 A. I've listened to it three times, but go ahead.

18 Q. And you're not answering it, so I'm going to ask you
19 again. Just try to listen.

20 Sitting here today, do you have a specific
21 recollection of seeing another person held in the same
22 cell as Marcus?

23 A. No.

24 Q. Okay. Thank you. So, during the drive home, is that
25 when Marcus told you about the conditions that he was

1 held in at Lapeer?

2 A. Correct.

3 Q. What else did you talk about on the drive home?

4 A. He talked about how obviously he was embarrassed, and
5 how it happened, and how it went down, and he was
6 concerned about his wife.

7 Q. What do you mean concerned about his wife?

8 A. How she would feel that he got a drunk driving.

9 Obviously it was pretty traumatic.

10 Q. Understood. Did he tell you where his wife was that
11 night?

12 A. No.

13 Q. You knew where his wife was that night though, right?

14 A. I did.

15 Q. Yeah. His wife was at a bachelorette party for Mat
16 King's wife, right?

17 A. That's correct.

18 Q. And your wife was also there, correct?

19 A. That's correct.

20 Q. Did Marcus tell you how -- you know, anything about
21 where he was before he was arrested?

22 A. He said he was at Tailgators.

23 Q. Okay. What's that?

24 A. It's a bar.

25 Q. Where is that located?

1 A. I believe it's on 20th and Lapeer in the city of Port
2 Huron.

3 Q. Did he tell you why he went to Tailgators that night?

4 A. To have a beer.

5 Q. Okay. Was he meeting anyone there?

6 A. We didn't talk about that. I don't know who he was
7 with even.

8 Q. Did he tell you anything about what happened at the
9 bar that night?

10 A. Nope.

11 Q. Did you ask?

12 A. No.

13 Q. Did you ask him how much he had to drink?

14 A. I did not.

15 Q. Did Marcus have a drinking problem?

16 A. Not to my knowledge.

17 Q. Would you, from time to time, go to Tailgators with
18 Marc?

19 A. I've been at Tailgators. I don't remember going with
20 Marc to Tailgators.

21 Q. Is that somewhere where people at the department go to
22 socialize? Is that like a hangout for people who work
23 for the sheriff's office?

24 A. I would say no.

25 Q. Do you remember Marcus telling you anything else on

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1 the drive home?

2 A. No.

3 Q. Okay. And did you update the sheriff when you got
4 back to the office?

5 A. I did. I contacted the lieutenant when I left. And I
6 contacted the lieutenant and the sergeant when I
7 arrived back. And then I believe they made contact
8 with the sheriff to let him know that he was here.

9 Q. When you say you contacted the lieutenant when you
10 left, what are you referring to?

11 A. Lieutenant Braun was coming on to duty. At the same
12 time he would be my lieutenant. He was kind of aware
13 of the situation. Obviously Jones and Lieutenant
14 Braun, they switch each other's shifts type of deal.
15 So, I'm sure he was getting briefed. I told Braun
16 what I was doing so he knew what I was doing. Because
17 by the time I got back, he would have been on duty.

18 Q. So, when you say you contacted Braun when you left,
19 when you left where?

20 A. My house.

21 Q. Okay. So you called Braun and said hey, I'm going to
22 pick up Marcus?

23 A. Yep.

24 Q. Did you tell him where you were going after that?

25 A. He knew I was bringing him back to the office.

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1 Q. Okay. And you said that, as far as you're aware,
2 Braun knew about the situation?

3 A. He did know about the situation.

4 Q. And then you said you contacted the lieutenant and the
5 sergeant when you arrived. Is that upon your arrival
6 with Marcus back to the office?

7 A. That's right. The, lieutenant would have been Braun,
8 the same person.

9 Q. Who was the sergeant that you contacted?

10 A. Zuzga. They were together in the same office. So,
11 they were contacted at the same time.

12 Q. Understood. So, are you calling them on the phone?

13 A. I did.

14 Q. And what did you tell them?

15 A. Hey, I'm back with Marc.

16 Q. Okay.

17 A. And they said we're in the DB.

18 Q. I'm sorry. Can you repeat that. You said hey, I'm
19 back with Marc.

20 A. I'm back with Marc. And they said yep, we're waiting
21 for you here in the detective bureau, which is the DB.

22 Q. Got it. So, was it your idea to go back to the DB or
23 somebody else's?

24 A. It's just kind of standard practice. This has
25 happened before. That's what we've done.

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1 Q. So, was it your idea or somebody else's?

2 A. I'll take responsibility. Yeah, it was my idea.

3 Q. Okay. No one directed you to take him back to the DB?

4 A. No. We all just kind of knew that's what was going to
5 happen.

6 Q. You know, sir, respectfully, I'm not asking you what
7 you knew. I'm just asking you --

8 A. Yes, it was my idea to take him to the detective
9 bureau.

10 Q. And no one directed you to do that?

11 A. I can't remember if the sheriff said bring him back to
12 the office or not.

13 Q. You said that earlier. I'm asking about the DB in
14 particular.

15 A. That's where I took him.

16 Q. That's where you took him, okay.

17 And there was no booking card or any other
18 record created upon your arrival back to the office
19 showing that he was, you know, in process or booked in
20 at your facility?

21 A. I never did, no.

22 Q. And nothing that you're aware of, sitting here today?

23 A. Nothing that I'm aware of, no. I don't know if the
24 supervisors did something, but I did not.

25 Q. Okay. And in fact, there are no records that exist

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1 created on November 6th, 2022, showing that he
2 actually remained in custody that night, or that
3 morning?

4 A. There is no record you're saying?

5 Q. Yeah. I'm asking you whether you know of any records
6 created on November 6th, the morning of November 6th,
7 upon your arrival, or at any other time on November --

8 A. What kind of records would you be talking about?

9 Q. Sir, if you could just let me finish so that we have a
10 clean record.

11 A. Sure.

12 Q. For our court reporter.

13 There are no records created on November
14 6th showing that Marcus remained in custody of your
15 department?

16 A. I did not do any records.

17 Q. And there are no such records that you know of sitting
18 here today?

19 A. I can't answer that. I do not know. I know I did
20 not --

21 Q. I'm just asking you what you know of sitting here
22 today. There are no such records that you know of
23 sitting here today?

24 A. I don't know of any records.

25 Q. Understood. Okay. So, you guys arrive back at the

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1 office. What happens? What's the first thing you do?

2 A. Lieutenant Braun and Sergeant Zuzga are in the DB
3 waiting for us. We bring him back in there. He sits
4 down. And we sit there and watch him until he sobers
5 up.

6 Q. So, describe for me the DB.

7 A. It looks a lot like an attorney room. There is a nice
8 big table with chairs around it. Probably eight to
9 ten chairs. And then there is cubicles for each

10 detective that's back there. Obviously it was the
11 weekend. So, nobody is working back there.

12 Marc sat in the second to the east chair of
13 the wall of the detective bureau and sat there. I sat
14 to the chair directly to the north of him.

15 Q. So, when you arrive, Braun and Zuzga were in the room?

16 A. They were sitting in opposite chairs of us.

17 Q. Was there a discussion at that time?

18 A. There was a discussion.

19 Q. What did that entail?

20 A. Hey, we're going to keep you here until you sober up
21 and you're free to go.

22 Q. Who said that?

23 A. I believe one of the supervisors did. But I think it
24 was common practice that everybody knew that's what
25 was going to happen.

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1 Q. I'm just asking who said what?

2 A. I don't recall exactly who said it.

3 Q. And what did Marc say?

4 A. I think he said okay or he knew.

5 Q. Okay. So, the area that you're describing with the
6 conference room, is that essentially in the same room
7 as the cubicles that you described? There is no wall
8 between the conference room area and the cubicles?

9 A. That's correct.

10 Q. Okay. And cubicles are open air. You know, do they
11 have doors?

12 A. No doors.

13 Q. Okay. And are there computers and files and office
14 materials in the cubicles?

15 A. Everything you would need to run a detective bureau,
16 yes.

17 Q. And there are, I'll call them, case files in the
18 cubicle area?

19 A. I'm assuming there probably was. I don't know.

20 Q. Okay. You said that you sat with Marcus. Was the
21 door locked?

22 A. I don't think the door -- I think the door
23 automatically locks. So, it probably was locked, yes.

24 Q. How does the door automatically lock?

25 A. I think during the weekend you have a key to get in

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1 it. So, after you shut it, unless you have key to
2 open it, it stays locked.

3 Q. What time did you arrive with Marcus at the detective
4 bureau.

5 A. I would think probably around 4, 4:15-ish.

6 Q. How many hours did you sit there with him?

7 A. Until 9:00.

8 Q. You sat there the whole time?

9 A. I did.

10 Q. And he sat there the whole time?

11 A. He did.

12 Q. You never left the room at any time?

13 A. I think I had Sergeant Zuzga come in because I had to
14 use the restroom at one point. And he stayed with
15 him.

16 Q. And Marcus, I assume, also left the room at some
17 point?

18 A. I don't recall him leaving the room.

19 Q. Never got up to use the restroom?

20 A. I don't recall him leaving the room.

21 Q. But it's possible that he did?

22 A. I don't recall him leaving the room.

23 Q. I heard you say that. But it's possible that he did?

24 A. Anything is possible.

25 Q. Including him getting up and leaving the room?

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1 A. I don't recall him leaving the room.

2 Q. I heard you say that, sir. I'm asking you -- you
3 know, you said you held him there for five hours. And
4 it's possible that you -- and it's possible that he
5 got up and left the room at some point during that
6 five hours? You're not disputing that here today?

7 A. Sure.

8 Q. Okay. Was he in handcuffs?

9 A. He was not.

10 Q. And aside from you -- or maybe I think you said it was
11 Zuzga coming in to relieve you at some point, was
12 there anybody else in the detective bureau that
13 morning?

14 A. Lieutenant Braun was there as well.

15 Q. So, did Braun and Zuzga stay the entire five hours?

16 A. They would come and go. Usually one of them was with
17 me in there for the amount.

18 Q. Okay. I'm not sure I understand that. So you said
19 they would come and go, and then you said that they
20 stayed there with you.

21 A. Right. So, they have a shift to run. So, one would
22 get out and maybe do some paperwork. Get their shift
23 going with the other guys. One would stay with me.
24 One would come back and check to see if we needed
25 something. Back and forth. One would stay and talk.

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1 Q. Okay. And was there always -- were there always two
2 of you in the room with Marc, or were you alone with
3 him?

4 A. I would 90 percent of the time there was always two of
5 us in there.

6 Q. Why did you need two of you in there?

7 A. I just think they were just in there.

8 Q. Because they were nosey or what?

9 A. I don't know. We were just hanging out and talking.

10 So, obviously it was a Sunday morning. So, there
11 wasn't a ton going on. So, everybody was just kind of
12 -- you know.

13 Q. So, what were you guys hanging out and talking about?

14 A. We weren't really talking about the drunk driving
15 because there wasn't much to say. I believe we had
16 talked about some hunting stuff. I don't recall the
17 whole conversation.

18 Q. Just chit-chatting?

19 A. Correct.

20 Q. Okay.

21 A. I don't think Marc at the time wanted to talk about
22 it.

23 Q. Understandable.

24 A. Sure.

25 Q. In the sheriff's department, you all don't detain or

1 house people that you bring in that you've arrested in
2 the detective bureau, correct? That's not the normal
3 procedure?

4 A. This is my third time doing what I did with Marc.

5 Q. Yeah. I'm asking, you know, normal people off the
6 street who get arrested for drunk driving.

7 A. No.

8 Q. You don't bring them back to hang out and chitchat in
9 the detective bureau?

10 A. Nope.

11 Q. No. You can't have -- it doesn't make sense to have,
12 you know, drunk or super drunk, or people under the
13 influence of alcohol or drugs, you know, hanging out
14 in the office when you're trying to run a shift,
15 right?

16 A. Correct.

17 Q. And are you familiar with the sheriff's office policy
18 for the release of intoxicated inmates or detainees?

19 A. If you have it, you can let me know.

20 Q. I'm asking you if you're familiar with it?

21 A. I'm familiar with it.

22 Q. Okay. What are you familiar with?

23 A. They have to be a 0.03 to be released.

24 Q. Does the term St Clair County Intervention Center, are
25 you familiar with that term?

1 A. Yep.

2 Q. That means the jail, correct?

3 A. That's how I've always called it, the jail, yeah.

4 Q. And am I correct that there is no record that you
5 created on November 6th showing that Marcus had a
6 blood alcohol level of 0.03 before he was allowed to
7 leave?

8 A. I believe it's in my supplemental report.

9 Q. Do you know the date of your supplemental report?

10 A. No.

11 Q. I'm asking you about any records that you created as
12 of a specific date, November 6th. You didn't create
13 any records on November 6th showing or evidencing that
14 Marcus had a blood alcohol level of 0.03 before he was
15 allowed to leave?

16 A. No. But it was witnessed by the sergeant and
17 lieutenant before I left.

18 Q. We're going to get into that in a second. I'm asking
19 about records that you created. And I think the
20 answer that I heard was no? Is that right, that you
21 never created a record?

22 A. On the 6th, no, I did not.

23 Q. What are you looking at?

24 A. I'm looking to the right.

25 Q. Yeah. What are you looking at?

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1 A. There is a piece of wood and a pencil over there that
2 I keep going to.

3 Q. No documents or anything that you're looking at over
4 there?

5 A. No.

6 Q. And I have to ask you this because we're on Zoom and I
7 can't physically see what you're looking at.

8 A. I understand.

9 Q. So, you said that you sat with Marcus for a number of
10 hours, chitchatted. So, eventually he left the
11 office, right?

12 A. Uh-huh.

13 Q. Okay. How did that play out?

14 A. Once his BAC was at a level he could leave, I drove
15 him to my residence.

16 Q. You drove him to your residence?

17 A. I did.

18 Q. Okay. You said once the BAC reached. How many PBT
19 tests did you give Marcus?

20 A. I want to say three.

21 Q. Okay. What was the time of the first one?

22 A. I don't know the exact time. We just kept -- we would
23 check to see where he was at.

24 Q. I'm asking you when was the first test?

25 A. I don't have the exact time.

1 Q. You don't know the time of the first test?

2 A. I don't.

3 Q. Okay. What was the time of the second test?

4 A. I don't know that time either.

5 Q. Okay. What was the time of the third test?

6 A. Right at 9:00 there.

7 Q. 9:00 on the dot?

8 A. Yes.

9 Q. What are you basing that information on?

10 A. The clock in the detective bureau.

11 Q. And I'm asking you -- I mean, I understand there is
12 probably a clock involved. I'm asking you something a
13 little different.

14 Your testimony that it was 9:00 on the dot,
15 what evidence are you basing that on?

16 A. I looked at the clock at 9:00 and then gave him the
17 preliminary breath test.

18 Q. So, your memory is what you're basing that on?

19 A. Correct.

20 Q. No other documents, materials, items, records that
21 you're basing that on?

22 A. Just my memory.

23 Q. Just your memory, okay.

24 A. Yes.

25 Q. You said that you gave him three tests?

1 A. Uh-huh.

2 Q. Are you sure about that?

3 A. Yeah, I'm pretty sure three tests.

4 Q. Pretty sure? How sure?

5 A. I feel three tests is what we gave him.

6 Q. What was the score that he got on the first test?

7 A. I don't remember the score because it wasn't an 0.03.

8 Q. Do you have any recollection of what the score was?

9 A. Neither score, no. It didn't really matter due to the
10 fact that we knew we couldn't release him.

11 Q. What was his score on the second test?

12 A. Same thing. It was higher than an 0.03.

13 Q. What was the machine that you used to administer the
14 first test?

15 A. PBT.

16 Q. Which machine did you use, sir?

17 A. The one out of my police car.

18 Q. Okay. Did you have to leave the room to go get it?

19 A. I think I brought it in with me when we came in
20 because I knew we were going to need it.

21 Q. Is your car assigned a specific, you know, device with
22 a serial number that always remains in your car?

23 A. Sure is.

24 Q. What is the serial number on that machine?

25 A. I have no idea.

1 Q. How would I get that information?

2 A. I'm sure it's on the machine. I'm sure we can get you
3 that.

4 Q. That machine that you used to administer the test to
5 Marcus, is that still the same machine in your car?

6 A. I believe so, yes.

7 Q. And it's my understanding that there were PBT machines
8 that were kind of an older model. And then there was
9 an upgrade that came out and some new machines got
10 into the mix. Was that machine one of the new ones or
11 the old ones?

12 A. I don't really know. I don't know.

13 Q. So, for the first test you used the machine from your
14 car. Who was in the room when you gave him the first
15 test?

16 A. I think Zuzga was in the room.

17 Q. Are you sure about that?

18 A. Yes.

19 Q. Okay. And where was Zuzga positioned when you
20 administered the first PBT test?

21 A. We were all just sitting at the table.

22 Q. How far away was Zuzga sitting to the subject being
23 tested?

24 A. Two feet.

25 Q. Could he see the readout?

1 A. I showed it to him.

2 Q. You showed it to him?

3 A. Uh-huh.

4 Q. But you don't remember what it was?

5 A. We knew it wasn't 3.

6 Q. But sitting here today, you don't remember?

7 A. No.

8 Q. When you administered the second test, you said you
9 don't know what time it was. You don't know what the
10 score was. Who else was in the room when you gave
11 that test?

12 A. I think Zuzga or Braun was in there almost every test
13 that I took, because I wanted it witnessed.

14 Q. Almost every test?

15 A. One of them was in there when I took the tests,
16 because I wanted it witnessed.

17 Q. So, there was someone else present when you
18 administered every single test?

19 A. Correct.

20 Q. So, what about the last test?

21 A. Yes. What about it?

22 Q. Who was there?

23 A. I believe they were both there.

24 Q. Who?

25 A. Braun and Zuzga.

1 Q. Who actually saw the score of the last test?

2 A. They both should have seen it.

3 Q. I'm not saying should have. I'm asking you, sitting
4 here today, the specific recollection that you have --

5 A. I --

6 Q. Let me finish. We're making a transcript.

7 I'm asking you, sitting here today, do you
8 have a specific recollection of which one of them saw
9 the readout of the third test?

10 A. Both of them saw the readout.

11 Q. Okay. And what was the score on the third test?

12 A. The 0.03.

13 Q. Exactly the magic number, right?

14 A. No. I think it was an 0.03 like 8. Maybe 0.03,
15 something of that nature, yeah.

16 Q. So, a little higher than 0.03?

17 A. I think it was -- I can't remember. But I want to say
18 it was like in the 0.03. And it trickles on for two.
19 So, we were at an 0.03.

20 Q. A little higher than an 0.03 if it's 0.038?

21 A. Sure.

22 Q. So, let's see here. Okay. So, after the last PBT
23 test was administered, what did you do next?

24 A. I think we cleaned the office up. Straightened
25 everything back out. And then I ended up taking Marc,

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1 like I said, back to my residence.

2 Q. Okay. You said you cleaned the office up?

3 A. Correct.

4 Q. What were you doing to clean the office up?

5 A. There was some food wrappers and some other stuff that
6 was hanging out in there.

7 Q. So, somebody brought food in for Marcus?

8 A. Yes.

9 Q. Okay. Who did that?

10 A. I think Lieutenant Braun did.

11 Q. Where did you get food from?

12 A. I think he got it from one of the restaurants.

13 Q. One of the restaurants nearby to the sheriff's office?

14 A. Correct.

15 Q. And, you know, prisoners who were held in the
16 intervention center, they don't get access to food
17 delivery while they're incarcerated, right?

18 A. Well, they get food.

19 Q. If you're in a drunk tank overnight, you're not
20 getting food delivered to you, are you sir?

21 A. No.

22 Q. Okay. Thank you. Were there other people, aside from
23 Braun and Zuzga who came and went from the room?

24 A. No.

25 Q. Nobody else?

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1 A. Nope.

2 Q. Nobody else who was on the shift came in to chitchat?

3 A. No.

4 Q. So you said that -- well, actually, let me ask you
5 this: Did Marcus place any phone calls or, you know,
6 text anybody that you saw while you were sitting with
7 him for five hours?

8 A. No.

9 Q. He never took his phone out in five hours?

10 A. Like I told you, I don't even know if he had his cell
11 phone. I don't remember him using a phone. He went
12 to sleep for a while.

13 Q. Okay. And you sat there and watched him sleep?

14 A. I did.

15 Q. And you were paid to sit there and watch him sleep by
16 taxpayer dollars?

17 A. What's that?

18 Q. And you were paid by taxpayer dollars to sit there and
19 watch him sleep?

20 A. Well, he was still in custody. So, somebody had to be
21 with him. So, that had to be me.

22 Q. So, I guess the answer to my question is yes.

23 Did you have your body camera on?

24 MR. SHOUDY: I'm sorry. Can I interrupt
25 you for a second. We've got Sellers scheduled for

1 1:00.

2 MS. MARZOTTO TAYLOR: Yeah. I've got
3 about, I don't know, maybe 15 minutes.

4 MR. SHOUDY: Okay. Let me just get word to
5 him that we might be running a little bit late.

6 MS. MARZOTTO TAYLOR: Okay. Let's take a
7 five-minute break.

8 (Off the record at 12:48 p.m.)

9 (Back on the record at 12:55 p.m.)

10 BY MS. MARZOTTO TAYLOR:

11 Q. So, you said that you drove Marcus back to your house?

12 A. Correct.

13 Q. Why did you take him back to your house?

14 A. It appeared that his wife was not very happy with him
15 for the drunk driving. So, we thought it would be in
16 his best interest to just kind of hang out at my
17 place, take a shower, and try to sleep some more,
18 since he hadn't slept that much.

19 Q. How did you learn that his wife wasn't happy with him?

20 A. He had made a phone call to her.

21 Q. When did he make a phone call to her?

22 A. In the car ride home with me. He used my phone. He
23 called Liz to let her know that he got arrested. And
24 the conversation was about a minute and a half long
25 with her hanging up on him so.

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1 Q. So this is when you left the sheriff's office?

2 A. When we left Lapeer County sheriff's office, Lapeer
3 County in the beginning, I said did you contact your
4 wife. Does she know you've been arrested. And he
5 goes no. And I go don't you think you should contact
6 your wife. And he said yeah. And I said let's call
7 her. So, I called her on my phone. I had her number.
8 He had told her what had happened. She got quite
9 hysterical, and at that point said don't come home.

10 Q. Okay. So, you took him back to your house?

11 A. Correct.

12 Q. During the car ride home from Lapeer, did you or
13 Marcus make any other phone calls?

14 A. That was the only phone call that was made.

15 Q. Before you left the office with Marcus to take him,
16 you know, homeward to your house, did you call the
17 sheriff to let him know, you know --

18 A. No.

19 Q. As far as you know, the supervisors notified the
20 sheriff that Marcus was leaving?

21 A. Correct. As far as I know. I don't know. I never
22 contacted him is what I'm saying.

23 Q. But you are aware that somebody let him know that
24 Marcus was headed out?

25 A. I'm assuming so, yeah.

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1 Q. Your shift was still on-going at that point, correct?

2 A. Correct.

3 Q. Okay. So you dropped him off at your house?

4 A. I dropped him off at my house. Got him situated. And
5 then I went back to work.

6 Q. Where did you report back to?

7 A. Back to the office.

8 Q. Okay. What did you do upon your return to the office?

9 A. Just spoke with Braun and Zuzga about, you know, what
10 was going to happen, and then what they wanted done
11 with the rest of my day. And then just kind of went
12 back out on patrol for a little bit.

13 Q. The conversation with regard to what was going to
14 happen, what was that about?

15 A. Just as far as like, you know, what they wanted, you
16 know, done with me for the rest of the day. You know,
17 since half the day was over and what was going on with
18 the shift.

19 Q. What did they tell you to do?

20 A. Just said go back on patrol for a little bit.

21 Q. Did you talk about what had happened with Marcus?

22 A. I'm sure there was probably a comment or something.
23 But everybody knew what happened. So, there wasn't
24 much to talk about. I said I got him tucked in at the
25 house. He's sleeping it off and I got him a shower.

April 03, 2025

1 Q. Any other conversation about what might happen with
2 Marcus with regard to work or anything like that?

3 A. No. They knew the investigation was going to take
4 place. So, who knew what was going to happen with
5 that.

6 Q. But you knew Marcus was supposed to report to work at
7 10:00 a.m., right?

8 A. Yeah. He worked my shift ten to ten, so yeah.

9 Q. So, you knew that he was going to -- you know, at
10 10:00 a.m., you know, an hour after you're taking him
11 home, he's supposed to be at work? You knew that,
12 right?

13 A. He works ten to ten, yeah.

14 Q. So you knew that. So, did you help him, you know,
15 make arrangements with regard to his work schedule?

16 A. Not at all.

17 Q. Well, was he AWOL to his shift?

18 A. I have no idea.

19 Q. Did you -- did he call the supervisor while you were
20 together to say hey, I'm not going to be in?

21 A. Well, it would have been the two of them.

22 Q. So, Braun and Zuzga were going to be the supervisors
23 for Marcus's upcoming shift?

24 A. Correct.

25 Q. Okay. Was there a discussion about how he was not

1 going to be working?

2 A. I don't remember anything like that.

3 Q. You don't remember in the five hours that you all
4 were, you know, sitting in the room together that
5 there was any discussion about him not reporting to
6 his shift at 10:00 a.m.?

7 A. No, I don't.

8 Q. Okay.

9 A. I guess -- yeah, no. I have no idea.

10 Q. So, it's possible that that discussion occurred;
11 you're not denying that?

12 A. I don't remember ever hearing a discussion like that.

13 Q. I understand you don't remember hearing it. I'm
14 saying that it's possible and you don't dispute that
15 it could have happened?

16 A. Sure. Anything is possible. Sure.

17 Q. Understood. And we already discussed that your shift
18 kind of overlapped with the 10:00 a.m. shift that Marc
19 was supposed to work?

20 A. Correct.

21 Q. And did you know that there was some training going on
22 that day that Marc was supposed to be a part of?

23 A. I have no idea. This is the first I heard.

24 Q. I'm sorry.

25 A. This is the first I've heard of it.

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1 Q. You didn't know that Marcus was supposed to be
2 training someone during his 10:00 a.m. shift?

3 A. No.

4 Q. That never came up in the, you know, more than five
5 hours that you were together, that you can recall?

6 A. I just told you I don't remember him saying that, no.

7 Q. It's possible though, right?

8 A. I don't remember him saying that.

9 Q. I know you don't remember that, but it's possible
10 though, correct?

11 A. Anything is possible, Deborah. That's correct.

12 Q. My name isn't Deborah. I'm Elizabeth.

13 A. Okay, Elizabeth. Sorry. It says Deborah on the
14 screen.

15 Q. I get that.

16 And you eventually did write a supplemental
17 report with regard to your involvement in the arrest?

18 A. Correct.

19 Q. On November 23rd, correct?

20 A. Correct.

21 Q. And you wrote that report after you were directed to
22 do so by your superiors, correct?

23 A. Correct.

24 Q. And the report was, you know, as of the 23rd of
25 November. That's, you know, 17 days after the actions

1 in question, correct?

2 A. That's correct.

3 Q. Yeah. And did you do a daily report for the 6th of

4 November?

5 A. No.

6 Q. Why not?

7 A. I just didn't.

8 Q. Okay. Isn't that a rule violation by you?

9 A. I'm sure it is.

10 Q. Did any of your supervisory ever talk to you about
11 that?

12 A. They asked me if I did a daily and I said I did not.

13 Q. And who was this conversation with?

14 A. I'm sure it was with Captain Pohl.

15 Q. And when did he ask you that?

16 A. During like when we were going through my supplement
17 and that. He goes did you do a daily. And I said I
18 did not do a daily.

19 Q. When did you go through your supplement with him?

20 A. After I got done reading it, or after doing it.

21 Q. That was on or after the 23rd of November?

22 A. When the report came out. Or when my supplement --
23 the 17 days or whatever you said that it came out.

24 Q. Yeah. So, you discussed your report with Pohl at that
25 time?

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1 A. I gave him my supplement. He said did you do a daily,
2 and I said no.

3 Q. And what did he say?

4 A. He said how come. I said with all the things that
5 were going on that day, I just didn't do one.

6 Q. Okay. And no one ever spoke to you about how that was
7 a rule violation or you were supposed to do a daily
8 report?

9 A. I think it was known that that was the case. I knew
10 that.

11 Q. No verbal counseling?

12 A. No.

13 Q. No written write-up?

14 A. No.

15 Q. And when you have -- when you are, you know, out on
16 patrol, you are performing your duties, including
17 being involved with an arrest. And somebody is in
18 custody as a result of that arrest. You are expected
19 to draft and hand in your report as of the end of your
20 shift, correct?

21 A. Say that one more time.

22 Q. Yeah. So, in your role as a deputy, you're out on
23 patrol. You're involved in the arrest of, you know, a
24 resident. They are taking into custody. It's the
25 expectation of the sheriff's office that you complete

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1 your written report at the end of your shift, correct?

2 A. Correct.

3 Q. Okay. And the supplemental report that you created,
4 how did that report come to be written? Because I see
5 that it wasn't typed out by you. So, walk me through
6 how that report was created.

7 A. So, when I went to pick Marc up, the report and the
8 arrest and everything was done. I was there basically
9 as bringing him back. I was taking more of a union
10 aspect.

11 Q. I'm asking you something very different, sir. I
12 didn't ask you for any of that information. I'm
13 asking you as of the 23rd, the report, how did it get
14 created? What were the steps you took to create that
15 report? Because I see it was not typed by you.

16 A. I had a dictation through one of the typists who typed
17 it. One of the typists typed it through my dictation.

18 Q. How did you create the dictation?

19 A. On our -- we have a -- it's called Winscribe. We have
20 a program.

21 Q. Okay. That's a computer program?

22 A. Correct.

23 Q. Okay. Is there a device you use to create that
24 recording?

25 A. Yes.

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1 Q. Okay. Describe that device for me.

2 A. We have a phone. It's on our phone app.

3 Q. Okay. Is this on your personal phone or your work
4 phone?

5 A. Work phone.

6 Q. So, you use your work phone to use this dictation
7 application?

8 A. Correct.

9 Q. Okay. Before this instance, this supplemental report,
10 have you ever used that before?

11 A. Yes.

12 Q. How many times?

13 A. How many times have I used my phone on Winscribe to do
14 a report?

15 Q. Yeah.

16 A. Oh, every time. I mean, I have typed some reports
17 out. But most of the time, if it's a substantial
18 report, I do dictate it.

19 Q. So, you dictated into your phone, and then what
20 happens?

21 A. It gets sent to one of the typists.

22 Q. Is that through the Winscribe electronic system?

23 A. It is.

24 Q. And you said the system sends it off to the typist?

25 A. Uh-huh.

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1 Q. And then what happens?

2 A. It goes on line. And they pick it out and, you know,
3 there is a bunch of -- so, every deputy sends their
4 stuff in. Which I'm sure you know this already, but
5 every deputy sends their stuff in. So, there is a
6 list of reports that need to be done. And then they
7 pull them out and do the reports. Type them out.

8 Q. So, what happens after the typist types it out? Do
9 you review it for accuracy?

10 A. Not necessarily no.

11 Q. This supplemental report dated November 23rd, did you
12 review that for accuracy?

13 A. I read it, yeah.

14 Q. Did you review it before you handed it in to Captain
15 Pohl?

16 A. I don't recall that.

17 Q. Okay.

18 A. He might have seen it prior to that.

19 Q. Okay.

20 A. He might have gotten it quicker than I, maybe if I was
21 off or something. I don't know.

22 Q. Who is it that directed you to write the report?

23 A. It was either Lieutenant Braun or Captain Pohl. I
24 can't exactly remember who exactly said hey. But a
25 report needed to get done. So I said okay, and did

1 the report.

2 Q. Okay. And did you get any verbal counseling or
3 written counseling or discipline for not writing that
4 report for, you know, over two weeks?

5 A. No.

6 Q. And am I correct that when you wrote that report on
7 the 23rd, or when you dictated it into your cell
8 phone, you didn't rely on any other documents or
9 pieces of evidence, you went solely from memory; is
10 that right?

11 A. That's correct.

12 Q. Okay. Did you become aware of a, quote unquote,
13 social media leak with regard to Marcus's arrest?

14 A. Yes.

15 Q. How did you learn about that?

16 A. I got a call from a buddy of mine that had seen the
17 social media, that we had done some illegal activity.
18 And then they proceeded to slander me and my wife
19 through the social media. So, I was a little ticked
20 off with that.

21 Q. Who is the buddy that called you?

22 A. I believe it was my buddy Don.

23 Q. Is he connected to the sheriff's office?

24 A. No.

25 Q. He is not an employee of the county?

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1 A. No.

2 Q. He's just a friend?

3 A. Yep.

4 Q. Okay. What's Don's last name?

5 A. David. He's my mechanic.

6 Q. Okay. And he called you and said what with regard to
7 the post?

8 A. He said hey, I've been looking at this Lindke post.

9 Did you see your name is in it. And I said no. And
10 then that's what happened.

11 Q. Okay. Did you look at the post?

12 A. I have looked at the post, yeah. I think on -- like I
13 don't log on to his stuff because I think he's a
14 complete asshole. So, I don't do that. And I don't
15 really prefer what he said about me or --

16 Q. I'm just asking if you looked at the post?

17 A. Yeah, I looked at it.

18 Q. When did Don call you?

19 A. This was after. This is when -- I think it hit, the
20 paper hit, and everything kind of hit at once. It was
21 right around that time.

22 Q. So, after it was in the paper?

23 A. I think so.

24 Q. Okay. Any on or about date?

25 A. No.

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1 Q. What paper covered it?

2 A. I think the Times Herald did, didn't they?

3 Q. Did you see the newspaper article?

4 A. I'm sure I did.

5 Q. Okay. Did you see that article before or after Don
6 called you?

7 A. I don't even know. I mean, you got on to understand,
8 Elizabeth, like -- and I'm sure you're well aware --
9 everybody was in the department -- sure, my friend Don
10 might have said something. But 15, 20 other people
11 would also get ahold of you and tell you what is going
12 on. And obviously there was this big thing that was
13 going on that got leaked out. So, you're asking me
14 where I read it, how I read it.

15 Q. No. Actually, I didn't ask you any of those. I just
16 asked you if you remember about when Don called?

17 A. I don't remember. I don't.

18 Q. You said that Don told you that your name was in the
19 post; is that right?

20 A. Correct.

21 Q. Okay. And he also said that your wife's name was in
22 the post?

23 A. Correct.

24 Q. And after Don called you, did you go look up the post?

25 A. I don't know if I did or somebody else did. I didn't

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1 get it from -- yeah, I can't remember. Somebody else
2 might have -- we might have looked it up.

3 Q. Do you remember who that was?

4 A. I don't remember.

5 Q. Was it someone at work?

6 A. No.

7 Q. So, another friend in the community?

8 A. I think so.

9 Q. Okay. And did you see a post that referenced your
10 name?

11 A. I did see my name on a post in Lindke's post, yes.

12 Q. Okay. What did it say?

13 A. Something about -- there was so many. Like I don't
14 have them in front of me.

15 Q. I understand that. I'm just asking you what you
16 remember the post saying about you.

17 A. I don't know what it said about me.

18 Q. What did the post say about your wife; if you recall?

19 A. That we had an affair.

20 Q. The post said that you and your wife had an affair?

21 A. Something of that nature, yes.

22 Q. Okay. Did the post referencing you and your wife have
23 anything to do with Marcus's arrest?

24 A. It was all entailed in that umbrella of that arrest,
25 correct.

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1 Q. So, the post had information about you and your wife
2 and Marcus's arrest in the same post?

3 A. I don't know.

4 Q. Why don't you describe for me the post you remember
5 seeing.

6 A. There was a post that said something about my wife and
7 I. I was her field training officer. And that Kevin
8 Lindke had made some comment that there was adultery
9 that took place. There was some type of cheating that
10 took place. And I used my power to make her my wife
11 and all a bunch of bullshit facts is what I remember.

12 Q. Anything else you remember from that post?

13 A. No.

14 Q. And you believe that was part of the social media leak
15 that was investigated by your department?

16 A. Who else would know?

17 Q. I'm just asking you if that's what you understood?

18 A. I'm assuming so, yeah. I have no idea Elizabeth.

19 Q. Okay. Were you ever advised by the department what
20 the leak was?

21 A. No.

22 Q. Okay. And you had some involvement in the
23 investigation, given that you're the union president
24 and there were folks being interviewed I'll say,
25 correct?

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1 A. I had nothing to do with that, no.

2 Q. You had nothing to do with that?

3 A. No. I was the union president. I don't understand
4 what you're asking me.

5 Q. You were notified that your union members were being
6 brought into investigation, interviews, correct?

7 A. I did know that, yes.

8 Q. And you actually got like a formal notification from
9 the administration that these interviews were going to
10 be taking place, correct?

11 A. Correct.

12 Q. And you yourself were interviewed?

13 A. I was.

14 Q. In the investigation?

15 A. Yes.

16 Q. Did you discuss the leak with anyone from the
17 department?

18 A. No.

19 Q. You didn't discuss it with Marcus?

20 A. I don't remember discussing anything with Marcus, no.
21 Like we didn't discuss the leak, as you call it. I
22 didn't really get into that part.

23 Q. You didn't discuss with Marcus that, you know,
24 unflattering information about his arrest had made its
25 way onto social media and the local news?

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1 A. I don't remember speaking to him about it, no. I
2 think everybody knew about it. But I don't remember
3 having a direct conversation with him about it.

4 Q. He never told you that, you know, that was a concern
5 for him and that he was embarrassed or anything like
6 that?

7 A. I think he was embarrassed about the drunk driving.
8 He never said anything about that.

9 Q. He never said anything about what?

10 A. About what you just said about the embarrassing of the
11 leakage.

12 Q. Did you ever talk to the sheriff about the leak?

13 A. No.

14 Q. Did you talk to Pohl?

15 A. No.

16 Q. Okay. Did you talk to your wife about it?

17 A. We had talked about that thing that I spoke with you
18 about the, you know, the adultery thing on Lindke's
19 page, yeah. We had spoke about that obviously.

20 Q. Okay. I'm not going to ask you about, you know, the
21 details of that necessarily, but what was the
22 conclusion that was reached in that conversation?

23 A. We were just obviously upset that somebody would do
24 that and have facts that weren't true and somebody
25 would use that to portray what they need to do for

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1 themselves. It was a little disheartening.

2 Q. Okay. Do you think -- so, Kevin Lindke is the one who
3 is posting it. Kevin Lindke has no connection to the
4 department, right?

5 A. I wouldn't think so.

6 Q. Well, I'm asking that you know of.

7 A. Well, obviously he knew something about the
8 department.

9 Q. Right. But he's not, you know, a former employee of
10 the department, or a former county employee, or a
11 current county employee or anything like that, right?

12 A. That's correct.

13 Q. But you think he has sources within the department
14 that are, you know, saying negative things?

15 A. He would have to get the information from somewhere,
16 right?

17 Q. And you were interviewed by Captain Pohl about the
18 social media leak, correct?

19 A. Correct.

20 Q. And during that interview, did Captain Pohl present to
21 you the social medial posts that were at issue?

22 A. Say the question again.

23 Q. So, during the interview that you had with Pohl, did
24 he show you the posts that were the leak?

25 A. I don't remember seeing the posts, no. I don't

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1 remember him showing me the posts like in a -- no.

2 Q. Not that you remember?

3 A. No.

4 Q. He never showed you what the posts were?

5 A. No.

6 Q. You mentioned earlier your wife was at the
7 bachelorette party that was held for Mat King's
8 fiancée on, you know, 5/6 November?

9 A. Yes.

10 Q. Do you remember when the party started?

11 A. I think they went to dinner some place. I'm trying to
12 think. I don't have the exact time, but I would say
13 probably 7.

14 Q. And there was like a bus trip involved, correct?

15 A. That sounds about right, yeah.

16 Q. Do you remember where the bus took the group?

17 A. I do not actually. I forgot about the bus until you
18 just said it.

19 Q. Do you recall the bus taking the group to Tailgators?

20 A. I don't think the bus ever went to Tailgators, but I
21 don't know that for sure either.

22 Q. It's possible that it did?

23 A. I don't think it's possible it did. In fact, I -- the
24 people that were on that bus, I know they wouldn't go
25 to Tailgators.

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1 Q. Why is that?

2 A. Just because they don't like that bar.

3 Q. Who doesn't like the bar that was on the bus?

4 A. The girls that were on the bus.

5 Q. Being who?

6 A. Well, it would be Mat's wife, my wife, and then Marc's
7 wife.

8 Q. Those were the only people on the bus?

9 A. That I know about.

10 Q. Okay.

11 A. I don't know who else was on the bus.

12 Q. Weren't there other members of the department who were
13 on the bus, like other -- like there was at least one
14 other female deputy that was on the bus?

15 A. I don't know.

16 Q. It's possible though?

17 A. It's possible.

18 Q. Were you at Tailgators on the night of November 5th?

19 A. I was not.

20 Q. Where were you on November 5th in the evening?

21 A. If my wife was out, I believe I was with my kids.

22 Q. Okay. And that's at home, I presume?

23 A. I presume, yep. I have a nine-year-old. He would
24 have been six or seven at the time. What, it's three
25 years it's been, so yeah.

1 Q. Okay. So, we know that Marcus didn't work his 10 a.m.
2 shift on November 6th. But he returned to work after
3 that, correct?

4 A. Yes, I believe he did.

5 Q. And your shifts kind of overlapped. So, you saw him
6 kind of back in the rotation, right?

7 A. Yes.

8 MS. MARZOTTO TAYLOR: No other questions
9 for you. Thank you for your time.

10 MR. SHOUDY: Thank you.

11 (The remote deposition was concluded at
12 1:24 p.m. Signature of the witness was not
13 requested by counsel for the respective parties
14 hereto.)

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