

IN THE CIRCUIT COURT OF THE
SEVENTH JUDICIAL CIRCUIT, IN AND
FOR FLAGLER COUNTY, FLORIDA

CASE NO.: 2020 CF 667

IN RE:

STATE OF FLORIDA

VS.

TRAVIS S. SMITH,

Defendant.

_____ /

NOTICE OF FILING: DEPOSITION TRANSCRIPTS

YOU WILL PLEASE TAKE NOTICE that the Defendant, Travis S. Smith, by and through the undersigned attorney, has filed the deposition transcripts of the following:

1. Deputy Robert Finn, Flagler County Sheriff's Office
2. Deputy Kathryn Gordon, Flagler County Sheriff's Office
3. Deputy Philip Kotowski, Flagler County Sheriff's Office
4. Corporal Daniel S. Parthemore, Flagler County Sheriff's Office
5. Nihat Aksezer

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by: E-Mail: Eserviceflagler@sao7.org Mail: The Office of the State Attorney, 1769 E. Moody Blvd., Building 1, Bunnell, FL 32110 Fax Hand Delivered to: Office of the State Attorney this 18th day of April, 2022.

RICE LAW FIRM, P.A.

/s/ Philip J. Bonamo

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1 IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL
2 CIRCUIT OF FLORIDA, IN AND FOR FLAGLER COUNTY

3
4 STATE OF FLORIDA,

5 Plaintiff,

6 vs.

Case No.:
18-2020-CF-667

7 TRAVIS S. SMITH,

8 Defendant.
9

10
11 DEPOSITION OF DEPUTY ROBERT FINN

12 Taken on Behalf of the Defendant
13

14 DATE TAKEN: November 25, 2020

15 TIME: 1:02 p.m. - 1:24 p.m.

16 PLACE: US Legal Support
17 Remote Video Conference
18

19
20
21 STENOGRAPHICALLY REPORTED BY:
22 Julie Kelley, FPR
23 Florida Professional Reporter
24

1 APPEARANCES:

2 Counsel for Plaintiff:

3 Philip Bavington, Esquire
4 Office of the State Attorney
5 Felony Division
6 1769 East Moody Boulevard
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9 Appeared via video conference

10 Counsel for Defendant:

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15 Winter Park, Florida 32790
16 (407) 644-4044
17 Appeared via video conference

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1 I N D E X

2 WITNESS:

PAGE:

3 DEPUTY ROBERT FINN

4 Called by the Defendant:

5 Direct Examination by Mr. Lindsey

4

6 CERTIFICATE OF OATH

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7 REPORTER'S DEPOSITION CERTIFICATE

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E X H I B I T S

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(No exhibits were marked.)

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P R O C E E D I N G S

THE COURT REPORTER: The attorneys participating in these depositions acknowledge that I am not physically present in the deposition room and that I will be reporting these depositions remotely. They further acknowledge that in lieu of an oath administered in person, I will administer the oath remotely. This arrangement is pursuant to the Florida Supreme Court Administrative Order No. AOSC-20-16. The parties and their counsel consent to this arrangement and waive any objections to this manner of reporting. Please indicate your agreement by stating your name and your agreement on the record beginning with the State.

MR. BAVINGTON: Phil Bavington for the State, I agree.

MR. LINDSEY: Warren Lindsey for the Defense, I agree.

(Whereupon the witness was sworn.)

DEPUTY ROBERT FINN, called as a witness by the Defendant, having been first duly sworn, testified as follows:

THE WITNESS: I swear.

DIRECT EXAMINATION

BY MR. LINDSEY:

1 Q. Good afternoon, Deputy Finn. Thanks for
2 appearing today right before Thanksgiving. Could you
3 give us your full name and spell it for the court
4 reporter, please?

5 A. Deputy Robert Finn, R-o-b-e-r-t, F-i-n-n.

6 Q. And what is your occupation?

7 A. Deputy.

8 Q. For who?

9 A. Flagler County Sheriff's Office.

10 Q. And how long have you been a deputy for Flagler
11 County Sheriff's Office?

12 A. About nine-and-a-half years.

13 Q. Okay. Are you road patrol or are you in any
14 special division?

15 A. Road patrol.

16 Q. And back on August 2nd of this year, were you
17 road patrol?

18 A. Yes, sir.

19 Q. Did you do any written reports or statements of
20 any kind in the case?

21 A. In the CAD notes, the --

22 Q. Are the CAD's where you call in and somebody
23 writes down what you said?

24 A. No, we type it in from our computer.

25 Q. Okay. And you're free to look at your CAD

1 notes any time. Were you wearing a body cam also?

2 A. Yes.

3 Q. Okay. And have you had a chance to review the
4 body cam from this day?

5 A. Yes.

6 Q. Okay. Where does it start in your case, in
7 your situation?

8 A. While I'm in route to the call.

9 Q. Okay. And I've looked at it. I haven't put
10 everybody specifically from one another, but I remember
11 seeing your's. Was it on the entire time?

12 A. Yes, it should have been, at least up until
13 everyone was secured and interviewed.

14 Q. Okay. I think I remember it showing you in the
15 car driving to the scene. Is that your understanding of
16 the beginning of it?

17 A. Yes.

18 Q. And then do you remember where it ends, what
19 portion of the matter or investigation it ends?

20 A. I don't.

21 Q. Okay. Did you collect any evidence in the case
22 at all?

23 A. I just was uploading the video from the
24 victim's vehicle.

25 Q. Okay. And how did you do that -- well, first,

1 before that, where did you go into the vehicle? Where
2 was whatever it was that had the video, where was it
3 located in the vehicle? You can look freely at any
4 notes you have.

5 A. I believe it was from his phone. He has a
6 connection to the dash camera system he had.

7 Q. Do you remember what the dash camera system
8 was?

9 A. I do not.

10 Q. In other words, was there a separate device
11 that was inside the vehicle that was doing the recording
12 versus the telephone doing the recording? Do you see
13 what I mean?

14 A. I believe it was. I don't know specifically.

15 Q. All right. So just to make sure I was
16 understandable to you, do you remember if the driver had
17 some sort of device that was actually inside of his car
18 separate from his phone that was doing the recording?

19 A. I believe it was. I didn't see the system.
20 I'm not positive on what the setup was exactly.

21 Q. Understood. So you would have been given a
22 phone to download something from?

23 A. Correct.

24 Q. Did you keep the phone or did you return the
25 phone?

1 A. Returned it.

2 Q. And how did you get the phone? How was it
3 provided to you, had another deputy gotten it or did you
4 get it from the alleged victim or did you find it in the
5 car or on his person? That's kind of the question.

6 A. It was given to me. I don't recall who
7 physically handed it to me.

8 Q. All right. So you don't recall if the phone
9 that you downloaded was given to you by another deputy
10 or someone else; is that correct?

11 A. Yes.

12 Q. When you got the phone, do you remember what
13 type of phone it was, like if it was an I-Phone 9 or 8
14 or another type of phone? Do you remember?

15 A. I do not.

16 Q. Okay. How did you -- when you got the phone,
17 take us through in detail what you did with it.

18 A. Well, I connected it to my computer and then
19 the video that I was given would have been uploaded into
20 the records management system.

21 Q. And when you connected the phone, you connected
22 it to a police computer?

23 A. Yes.

24 Q. Is it a laptop?

25 A. Yes.

1 Q. Did you go into your patrol vehicle to do it?

2 A. Yes.

3 Q. Does your laptop stay sort of in your car,
4 mounted in your car?

5 A. Yes.

6 Q. Versus carrying it around or whatever.

7 A. Yeah, it's secured in the vehicle.

8 Q. Okay. What type of computer do you have in
9 your car?

10 A. A Dell.

11 Q. Is that what you're using right now, the same
12 computer to do the deposition?

13 A. Yes.

14 Q. And did you use a cord to the phone or how did
15 you -- specifically how did you commence the download?

16 A. That would have been with a cord.

17 Q. Okay. And how did you know what to download,
18 how much to download, how far to go back? How did you
19 figure that out?

20 A. So the files were separated. There was
21 multiple files based on -- I don't know exactly how it
22 broke up the video files. When you go through them, you
23 can see where the event happened and the video file that
24 was relevant was the one that was given to me to upload.

25 Q. Did you have to scan other video files to get

1 to it to figure it out?

2 A. Yes.

3 Q. Were the video files by rides or by events, the
4 separate video files?

5 A. I believe it was by times. I don't know
6 specifically.

7 Q. In other words, would you click on a file, look
8 at it, see that it related or didn't, and click on
9 another one? Is that how you went through the process
10 of locating what you ended up downloading?

11 A. Yes.

12 Q. Do you remember how many files you clicked
13 through before you got to the file that you downloaded?

14 A. I do not.

15 Q. In the file that you downloaded, how far
16 back -- the one I got was not that long in terms of
17 duration. Did you make a decision to start it at a
18 certain place of the file versus all the way going back
19 to when that file began?

20 A. Sorry, can you rephrase?

21 Q. Sure. The file I got or the video clip I got
22 was short and so I'm trying to ask you did you make a
23 determination to start the download at a certain place
24 in the file versus going all the way back to the
25 beginning of whatever was on that video file, like from

1 the beginning of that particular Linx ride?

2 A. The files, they were automatically broken up
3 already I guess you could say. They were in certain
4 segments. I don't know how the system separated videos
5 and why it made different files. The file that was
6 uploaded is the one that contained the altercation that
7 occurred.

8 Q. Right, but was there another -- either more of
9 that file or a preceding file that recorded the ride
10 before that video started?

11 A. There may have been.

12 Q. Do you see what I mean?

13 A. Yeah, I understand what you're saying, a video
14 of the trip before the altercation occurred.

15 Q. Yes --

16 A. Yeah, there may have been from prior to the
17 altercation occurring, but this is the video that
18 pertained to what we were investigating.

19 Q. All right. Do you remember if it had a certain
20 label and time on it or not?

21 A. I don't recall.

22 Q. Okay. From my experience, and you obviously
23 knew how to do this, sometimes the video clips are
24 limited in duration of how long they can record and then
25 it goes to another video clip. Is that your

1 understanding from your experience?

2 A. I know some systems do it that way and that
3 very well may have been the case, but I do not recall
4 specifically.

5 Q. Okay. Did you return the phone?

6 A. Yes.

7 Q. Just so I'm clear, just to make sure, you don't
8 know if there was video on the phone that would have
9 recorded the beginning of the ride up to where you
10 started recording? You don't know one way or another if
11 there's a video clip on the phone that covers that
12 period; is that accurate?

13 A. I imagine there was, but I don't recall
14 specifically.

15 Q. Okay. Do you use a certain software or certain
16 program to do this?

17 A. No.

18 Q. How do you do it? You're young and I'm old.
19 Tell me how you did it.

20 A. When you plug a phone into the computer, it
21 automatically opens up and like you're searching through
22 a regular file folder on your computer or it's like
23 putting in a flash drive basically and you click through
24 the folders that way to get to what you need.

25 Q. Okay. Do you remember how many file folders

1 that contained video, separate ones, were on the phone?

2 Do you remember?

3 A. I do not.

4 Q. And sometimes I've seen where they download
5 like other information from a phone, like a lot of the
6 data from the phone other than just a videotape. In
7 this case you did not do that, right?

8 A. I don't know what you mean.

9 Q. I mean like sometimes they can download data
10 about when the phone was used, when it was turned off,
11 when it was turned on, kind of technical data other than
12 just the videotape. Do you see what I mean now?

13 A. Oh, I understand. No, I did nothing of the
14 sort.

15 Q. How long did it take you to conduct the
16 download from start to finish if you remember?

17 A. I don't recall.

18 Q. All right. Then after you were done with the
19 download, what did you do with the phone?

20 A. Returned it to the owner.

21 Q. Okay. To the owner or to another deputy if you
22 remember?

23 A. I actually don't recall.

24 Q. Okay. What else did you -- did you have any
25 contact with witnesses out there?

1 A. Yes.

2 Q. Who did you have contact with?

3 A. I had contact with the other male and his son
4 that was in the back seat with Travis.

5 Q. Okay. Were they sitting on a curb or something
6 when you were talking to them?

7 A. They were somewhere across the street from
8 where Travis and the victim were fighting standing near
9 a guardrail.

10 Q. This is Andrew or Andy and his son?

11 A. I don't recall his name, but yes.

12 Q. Primarily did you stay with that other person
13 and his son during the matter?

14 A. Yes.

15 Q. Did you have any contact with Travis Smith at
16 all that you remember other than maybe from a distance?

17 A. I know I was near him. I don't recall any
18 conversations with him.

19 Q. All right. When you saw him, was he
20 handcuffed?

21 A. When I arrived on scene, I believe him and the
22 victim were in the process of being handcuffed or had
23 just finished being handcuffed.

24 Q. When you arrived on scene, had any of the
25 police officers deployed taser devices or firearms that

1 were directed at Travis Smith?

2 A. I know it occurred. I don't recall seeing it
3 myself.

4 Q. But you know it happened, right?

5 A. Yes.

6 Q. Was it a taser gun or was it a real gun or
7 both?

8 A. A taser.

9 Q. Okay. The taser looks like a gun, right?

10 A. Not specifically.

11 Q. Okay. And then when did you terminate your
12 involvement out there?

13 A. After the investigation was concluded, I gave
14 the male and his son a ride to a hotel because they
15 couldn't get back into the house they were visiting with
16 Travis at.

17 Q. That was very nice of you to do that. Did you
18 take any written or oral statements from the man or his
19 son?

20 A. He spoke to me verbally, yes.

21 Q. What did the man -- looking at your report, was
22 the man named Andrew Kastel, K-a-s-t-e-l; does that ring
23 a bell?

24 A. Yes, the last name does.

25 Q. Okay. What did Mr. Kastel tell you verbally?

1 A. He advised that Travis is the one that went
2 after the Lyft driver and then he claimed that there was
3 an issue with the Lyft driver driving erratically and he
4 and his son had to -- I don't know if they had to, but
5 Travis told them to get out of the vehicle as he was
6 attacking the Lyft driver.

7 Q. All right. But Mr. Kastel told you the Lyft
8 driver was driving recklessly or something like that?

9 A. Yes.

10 Q. Is that pretty much the substance of what you
11 were told by Mr. Kastel?

12 A. Yes.

13 Q. Did you yourself -- other than what we've
14 talked about about the phone, taking the video clip, did
15 you take anything else into evidence or help in taking
16 any other items or anything at all into evidence?

17 A. No.

18 Q. Who was the lead officer out there?

19 A. Deputy Kotowski.

20 Q. Okay. And is that usually the case, one person
21 kind of takes the lead or is the main person in charge?

22 A. Yes.

23 Q. Do you remember if there was audio on the clip
24 that we talked about that you took from the phone?

25 A. Yes, I believe there was.

1 Q. Okay. And did you administer Miranda to
2 anybody?

3 A. Not that I recall.

4 Q. Have you ever spoken to Travis Smith yourself?

5 A. Not that I recall -- I may have asked him if
6 his friend can go to the house. I know there's an issue
7 over the house key and Travis not wanting the friend to
8 stay there.

9 Q. And the Lyft driver, other than maybe, maybe
10 not handing him the phone, did you have any other
11 contact with him?

12 A. Not that I can recall.

13 Q. Did you have anything to do with posting the
14 video on YouTube?

15 A. No.

16 Q. Do you know who posted it from the Sheriff's
17 office on YouTube?

18 A. I imagine it was the public information
19 officer, but I do not know who posted it.

20 Q. Do you know if that's something that the
21 Flagler County Sheriff's Office does, post things on
22 YouTube, videos?

23 A. Depending on situations.

24 Q. But after the event, you had no -- did you have
25 any contact with anybody that was complaining about that

1 having been posted, I can't pronounce his name, but
2 Mr. Nihat Alcazer(phonetic)?

3 A. No.

4 Q. And then after that, did you drop Mr. Kastel
5 and his son off at a motel?

6 A. Yes.

7 Q. And then after that did you go about other
8 duties?

9 A. Yes.

10 Q. Did you go back to the scene or did you go do
11 something else?

12 A. In reference to this case, no.

13 Q. Nothing with this case anymore, right?

14 A. Right.

15 Q. Okay. And have you ever had any contact before
16 or after this with the Lyft driver or is this the only
17 contact you've ever had with him?

18 A. The only contact I'm aware of.

19 Q. Same with Travis Smith?

20 A. Yes.

21 MR. LINDSEY: All right, thank you very much.
22 I don't have any other questions.

23 THE WITNESS: Thank you.

24 MR. BAVINGTON: No questions from the State.

25 Read or waive?

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THE WITNESS: Waive.
(Deposition concluded at 1:24 p.m.)

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CERTIFICATE OF OATH

STATE OF FLORIDA
COUNTY OF OSCEOLA

I, the undersigned authority, hereby certify
that the witness named herein, DEPUTY ROBERT FINN,
appeared via video conference and was duly sworn on the
25th day of November, 2020.

WITNESS my hand and official seal this 14th day
of December, 2020.



JULIE KELLEY, FLORIDA PROFESSIONAL REPORTER
NOTARY PUBLIC - STATE OF FLORIDA
MY COMMISSION NO. GG063794
EXPIRES: MARCH 23, 2021

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REPORTER'S DEPOSITION CERTIFICATE

STATE OF FLORIDA
COUNTY OF OSCEOLA

I, Julie Kelley, Florida Professional Reporter and Notary Public in and for the State of Florida at large, hereby certify that the witness appeared via video conference for the taking of the foregoing deposition, and that I was authorized to and did stenographically and electronically report the deposition, and that the transcript is a true and complete record of my stenographic notes and recordings thereof.

I FURTHER CERTIFY that I am neither an attorney, nor counsel for the parties to this cause, nor a relative or employee of any attorney or party connected with this litigation, nor am I financially interested in the outcome of this action.

DATED THIS 14th day of December, 2020, at
Kissimmee, Osceola County, Florida.



JULIE KELLEY, FLORIDA PROFESSIONAL REPORTER

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IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL
CIRCUIT OF FLORIDA, IN AND FOR FLAGLER COUNTY

STATE OF FLORIDA,

Plaintiff,

vs.

Case No.:
18-2020-CF-667

TRAVIS S. SMITH,

Defendant.

DEPOSITION OF DEPUTY KATHRYN GORDON

Taken on Behalf of the Defendant

DATE TAKEN: November 25, 2020

TIME: 1:40 p.m. - 1:45 p.m.

PLACE: US Legal Support
Remote Video Conference

STENOGRAPHICALLY REPORTED BY:
Julie Kelley, FPR
Florida Professional Reporter

1 APPEARANCES:

2 Counsel for Plaintiff:

3 Philip Bavington, Esquire
4 Office of the State Attorney
5 Felony Division
6 1769 East Moody Boulevard
7 Building 1, 3rd Floor
8 Bunnell, Florida 32110
9 Appeared via video conference

10 Counsel for Defendant:

11 Warren W. Lindsey, Esquire
12 Lindsey & Ferry, P.A.
13 1150 Louisiana Avenue
14 Suite 2
15 Winter Park, Florida 32790
16 (407) 644-4044
17 Appeared via video conference

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1 I N D E X

2 WITNESS:

PAGE:

3 DEPUTY KATHRYN GORDON

4 Called by the Defendant:

5 Direct Examination by Mr. Lindsey

4

6 CERTIFICATE OF OATH

7

7 REPORTER'S DEPOSITION CERTIFICATE

8

8 WITNESS NOTIFICATION LETTER

9

9 ERRATA SHEET

10

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11

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E X H I B I T S

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(No exhibits were marked.)

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P R O C E E D I N G S

THE COURT REPORTER: The attorneys participating in these depositions acknowledge that I am not physically present in the deposition room and that I will be reporting these depositions remotely. They further acknowledge that in lieu of an oath administered in person, I will administer the oath remotely. This arrangement is pursuant to the Florida Supreme Court Administrative Order No. AOSC-20-16. The parties and their counsel consent to this arrangement and waive any objections to this manner of reporting. Please indicate your agreement by stating your name and your agreement on the record beginning with the State.

MR. BAVINGTON: Phil Bavington for the State, I agree.

MR. LINDSEY: Warren Lindsey for the Defense, I agree.

(Whereupon the witness was sworn.)

DEPUTY KATHRYN GORDON, called as a witness by the Defendant, having been first duly sworn, testified as follows:

THE WITNESS: Yes, ma'am.

DIRECT EXAMINATION

BY MR. LINDSEY:

1 Q. Deputy, could you give us your full name and
2 spell it for the court reporter, please?

3 A. Yes, sir. My first name is Kathryn,
4 K-a-t-h-r-y-n, middle name Aileen, A-i-l-e-e-n, last
5 name Gordon, G-o-r-d-o-n.

6 Q. You're a deputy for Flagler County Sheriff's
7 Office?

8 A. Yes, sir.

9 Q. And how long?

10 A. Since January 6th of this year.

11 Q. Okay. Before January 6th of this year, did you
12 have any other law enforcement background?

13 A. No, sir.

14 Q. What did you do prior to becoming a deputy?

15 A. I went to college full time.

16 Q. Okay. And are you a road patrol officer?

17 A. Yes, sir.

18 Q. And on August 2nd, 2020, were you working?

19 A. I believe so, yes, sir.

20 Q. Did you do any written reports or statements in
21 the case of any kind?

22 A. No, sir, I did not. I was canceled from the
23 call.

24 Q. Okay. So did you even go out?

25 A. No, sir, I was dispatched, but I was canceled

1 before I even arrived.

2 Q. All right. So you never went on scene?

3 A. No, sir.

4 Q. Never had anything to do with any evidence or
5 anything?

6 A. No, sir.

7 Q. So you did nothing in the case?

8 A. No, sir.

9 MR. LINDSEY: Okay, sorry to inconvenience you
10 today.

11 THE WITNESS: No problem.

12 MR. BAVINGTON: No questions from the State.

13 THE WITNESS: I'll read.

14 (Deposition concluded at 1:45 p.m.)
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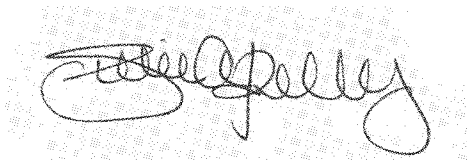
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CERTIFICATE OF OATH

STATE OF FLORIDA
COUNTY OF OSCEOLA

I, the undersigned authority, hereby certify
that the witness named herein, DEPUTY KATHRYN GORDON,
appeared via video conference and was duly sworn on the
25th day of November, 2020.

WITNESS my hand and official seal this 14th day
of December, 2020.



JULIE KELLEY, FLORIDA PROFESSIONAL REPORTER
NOTARY PUBLIC - STATE OF FLORIDA
MY COMMISSION NO. GG063794
EXPIRES: MARCH 23, 2021

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REPORTER'S DEPOSITION CERTIFICATE

STATE OF FLORIDA
COUNTY OF OSCEOLA

I, Julie Kelley, Florida Professional Reporter and Notary Public in and for the State of Florida at large, hereby certify that the witness appeared via video conference for the taking of the foregoing deposition, and that I was authorized to and did stenographically and electronically report the deposition, and that the transcript is a true and complete record of my stenographic notes and recordings thereof.

I FURTHER CERTIFY that I am neither an attorney, nor counsel for the parties to this cause, nor a relative or employee of any attorney or party connected with this litigation, nor am I financially interested in the outcome of this action.

DATED THIS 14th day of December, 2020, at
Kissimmee, Osceola County, Florida.



JULIE KELLEY, FLORIDA PROFESSIONAL REPORTER

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WITNESS NOTIFICATION LETTER

December 14, 2020

Deputy Kathryn Gordon
901 East Moody Boulevard
Bunnell, FL 32110

In Re: State of Florida vs. Travis S. Smith
Deposition taken on 11/25/2020
U.S. Legal Support Job No. 2308983

The transcript of the above-referenced proceeding has been prepared, and a courtesy copy is enclosed here for your review.

Any corrections you wish to make to the transcript should be made on the errata sheet. Please do not write on the transcript itself.

Please complete your review of the transcript within 30 days and return the errata sheet to our office. You need not return the entire transcript.

Sincerely,



Julie Kelley, FPR
U.S. Legal Support, Inc.
20 North Orange Avenue
Suite 1209
Orlando, Florida 32801
(407) 649-9193

CC via transcript:
Warren W. Lindsey, Esquire

1 ATTACH TO THE DEPOSITION OF DEPUTY KATHRYN GORDON
2 CASE: STATE OF FLORIDA vs. TRAVIS S. SMITH
3 CASE NO.: 18-2020-CF-667

3

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ERRATA SHEET

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I, DEPUTY KATHRYN GORDON, have read the foregoing
deposition given by me via video conference on November
25, 2020, and the following corrections, if any, should
be made in the transcript:

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Subject to the above corrections, if any, my
testimony reads as given by me in the foregoing
deposition.

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SIGNED at _____ Florida, this
_____ day of _____, 20__.

DEPUTY KATHRYN GORDON

<hr/> <p style="text-align: center;">1</p> <hr/> <p>1:45 6:14</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2020 5:18 2nd 5:18</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6th 5:10,11</p> <hr/> <p style="text-align: center;">A</p> <hr/> <p>A-I-L-E-E-N 5:4 acknowledge 4:3,6 administer 4:7 administered 4:7 Administrative 4:9 agree 4:16,18 agreement 4:12,13 Aileen 5:4 All 6:2 am 4:3 and 4:4,10, 11,13 5:1,9, 16,18 any 4:11 5:12,20,21 6:4 anything 6:4, 5 AOSC-20-16 4:10 are 5:16 arrangement 4:8,11</p>	<hr/> <p>arrived 6:1 as 4:20,22 at 6:14 attorneys 4:2 August 5:18</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>background 5:12 Bavington 4:15 6:12 becoming 5:14 been 4:21 before 5:11 6:1 beginning 4:14 believe 5:19 but 5:25 by 4:13,20,25</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>call 5:23 called 4:20 canceled 5:22,25 case 5:21 6:7 college 5:15 concluded 6:14 consent 4:10 could 5:1 counsel 4:10 County 5:6 court 4:2,9 5:2</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>Defendant 4:21 Defense 4:17 deposition 4:4 6:14</p>	<hr/> <p>depositions 4:3,5 deputy 4:20 5:1,6,14 did 5:11,14, 20,22,24 6:7 DIRECT 4:24 dispatched 5:25 do 5:14,20 6:4 duly 4:21</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>enforcement 5:12 even 5:24 6:1 evidence 6:4 EXAMINATION 4:24</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>first 4:21 5:3 Flagler 5:6 Florida 4:9 follows 4:22 for 4:15,17 5:2,6 from 5:22 6:12 full 5:1,15 further 4:6</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>G-O-R-D-O-N 5:5 give 5:1 go 5:24 Gordon 4:20 5:5</p>	<hr/> <p style="text-align: center;">H</p> <hr/> <p>had 6:4 have 5:12 having 4:21 how 5:9</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>I'LL 6:13 in 4:3,4,6,7 5:20 6:7 inconvenience 6:9 indicate 4:12 is 4:8 5:3 it 5:2</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>January 5:10, 11</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>K-A-T-H-R-Y-N 5:4 Kathryn 4:20 5:3 kind 5:21</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>last 5:4 law 5:12 lieu 4:6 Lindsey 4:17, 25 6:9 long 5:9</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>ma'am 4:23 manner 4:12</p>
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<p>middle 5:4 MR 4:15,17,25 6:9,12 My 5:3</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>name 4:13 5:1,3,4,5 never 6:2,4 No 4:9 5:13, 22,25 6:3,6, 8,11,12 not 4:3 5:22 nothing 6:7</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>oath 4:6,7 objections 4:11 of 4:6,12 5:10,11,21 Office 5:7 officer 5:16 Okay 5:11,16, 24 6:9 on 4:13 5:18 6:2 or 5:20 6:4 Order 4:9 other 5:12 out 5:24</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>p.m. 6:14 participating 4:2 parties 4:10 patrol 5:16 person 4:7 Phil 4:15 physically 4:4</p>	<p>please 4:12 5:2 present 4:4 prior 5:14 problem 6:11 pursuant 4:8</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>questions 6:12</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>read 6:13 record 4:14 remotely 4:5, 8 reporter 4:2 5:2 reporting 4:5,12 reports 5:20 right 6:2 road 5:16 room 4:4</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>scene 6:2 Sheriff's 5:6 Since 5:10 sir 5:3,8,13, 17,19,22,25 6:3,6,8 so 5:19,24 6:2,7 sorry 6:9 spell 5:2 State 4:14,15 6:12 statements 5:20 stating 4:13 Supreme 4:9</p>	<p>sworn 4:19,21 24 6:2,7,9</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>testified 4:22 that 4:3,4,6 their 4:10 these 4:3,5 They 4:5 this 4:8,11 5:10,11 time 5:15 to 4:8,11 5:14,15 6:4,9 today 6:10</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>us 5:1</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>waive 4:11 Warren 4:17 was 4:19 5:22,25 went 5:15 6:2 were 5:18 What 5:14 whereupon 4:19 will 4:5,7 with 4:14 6:4 witness 4:19, 20,23 6:11,13 working 5:18 written 5:20</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>year 5:10,11 yes 4:23 5:3, 8,17,19 you 5:1,11, 14,16,18,20,</p>	<p>24 6:2,7,9 You're 5:6 your 4:12,13 5:1</p>
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IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL
CIRCUIT OF FLORIDA, IN AND FOR FLAGLER COUNTY

STATE OF FLORIDA,

Plaintiff,

vs.

Case No.:
18-2020-CF-667

TRAVIS S. SMITH,

Defendant.

DEPOSITION OF DEPUTY PHILIP KOTOWSKI

Taken on Behalf of the Defendant

DATE TAKEN: November 25, 2020
TIME: 2:02 p.m. - 2:24 p.m.
PLACE: US Legal Support
Remote Video Conference

STENOGRAPHICALLY REPORTED BY:
Julie Kelley, FPR
Florida Professional Reporter

1 APPEARANCES:

2 Counsel for Plaintiff:

3 Philip Bavington, Esquire
4 Office of the State Attorney
5 Felony Division
6 1769 East Moody Boulevard
7 Building 1, 3rd Floor
8 Bunnell, Florida 32110
9 Appeared via video conference

10 Counsel for Defendant:

11 Warren W. Lindsey, Esquire
12 Lindsey & Ferry, P.A.
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14 Suite 2
15 Winter Park, Florida 32790
16 (407) 644-4044
17 Appeared via video conference

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1 I N D E X

2 WITNESS:

PAGE:

3 DEPUTY PHILIP KOTOWSKI

4 Called by the Defendant:

5 Direct Examination by Mr. Lindsey

4

6 CERTIFICATE OF OATH

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7 REPORTER'S DEPOSITION CERTIFICATE

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E X H I B I T S

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(No exhibits were marked.)

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P R O C E E D I N G S

THE COURT REPORTER: The attorneys participating in these depositions acknowledge that I am not physically present in the deposition room and that I will be reporting these depositions remotely. They further acknowledge that in lieu of an oath administered in person, I will administer the oath remotely. This arrangement is pursuant to the Florida Supreme Court Administrative Order No. AOSC-20-16. The parties and their counsel consent to this arrangement and waive any objections to this manner of reporting. Please indicate your agreement by stating your name and your agreement on the record beginning with the State.

MR. BAVINGTON: Phil Bavington for the State, I agree.

MR. LINDSEY: Warren Lindsey for the Defense, I agree.

(Whereupon the witness was sworn.)

DEPUTY PHILIP KOTOWSKI, called as a witness by the Defendant, having been first duly sworn, testified as follows:

THE WITNESS: I do.

DIRECT EXAMINATION

BY MR. LINDSEY:

1 Q. Deputy, good afternoon. Thank you for coming
2 early. Could you give the court reporter your full name
3 and spell it, please?

4 A. It's Philip, P-h-i-l-i-p, Paul, P-a-u-l, last
5 name is Kotowski, K-o-t-o-w-s-k-i.

6 Q. And how long have you been a deputy with the
7 Flagler County Sheriff's Office?

8 A. Since June of 2019, approximately a
9 year-and-a-half.

10 Q. Okay. Did you have prior law enforcement
11 experience before that or is this your first?

12 A. First law enforcement experience.

13 Q. What did you do before you became a deputy?

14 A. I was in the Marine Corps reserves and I worked
15 in the medical field.

16 Q. Okay. I see that you did some -- at least one
17 written statement in the case; is that right?

18 A. Yes.

19 Q. Have you had a chance to review it?

20 A. The written statement, no.

21 Q. Okay. On August 2nd, 2020, were you working
22 road patrol?

23 A. Yes.

24 Q. And were you wearing a body cam?

25 A. Yes, I was.

1 Q. And have you had a chance to review the body
2 cam in this case?

3 A. Yes, I have.

4 Q. And where does the body cam start in terms of
5 coming to the event, being added or what have you?

6 A. It starts just a couple minutes prior to me
7 coming on scene to the event where I was running lights
8 and sirens to get there.

9 Q. Okay. And the reason why I ask you is because
10 it cuts out a lot of questions.

11 A. Okay.

12 Q. So you're going down the road and it's
13 recording audio and video?

14 A. Correct.

15 Q. All right. And where did you go to? Where did
16 you end up?

17 A. It was the intersection of Royal Palms Parkway
18 and Beltair.

19 Q. And when you got there, what did you do?

20 A. So initially I exited my vehicle. There was a
21 male standing there. I'm not sure who he was. I asked
22 him what was going on. He told me he had no idea. Then
23 I saw the two gentlemen. One of them was on top of the
24 other. I gave the one gentleman who was later
25 identified to me as Mr. Smith a verbal command to get

1 off of the other gentleman. Initially he didn't listen.
2 I withdrew my department-issued taser, aligned it on his
3 back, told him to get off. He complied. Then I told
4 the other gentleman to stay on the ground. Both of them
5 were subsequently secured in handcuffs after my
6 supervisor arrived on scene.

7 Q. Okay. After Travis Smith was placed in
8 handcuffs, where was he taken, was he taken to the back
9 of a police vehicle?

10 A. I believe so. I don't want to speak 100
11 percent. I was with the other subject at that time, but
12 to my knowledge he was placed in the rear of a patrol
13 vehicle.

14 Q. Was he removed from where he was handcuffed to
15 another location?

16 A. Yes.

17 Q. You believe it was a police vehicle, but it was
18 somewhere other than where you were; is that right?

19 A. Correct, yes.

20 Q. And were you the first officer as far as you
21 know to have contact with Mr. Smith, Travis Smith?

22 A. Yes.

23 Q. You mentioned a male that you briefly had
24 contact with. Did you get that male's contact
25 information?

1 A. I did not. He left the scene prior to us being
2 able to speak to him.

3 Q. Was he a civilian?

4 A. Yes.

5 Q. Was he a male?

6 A. Yes.

7 Q. But he was there, he was present right where
8 you first encountered Mr. Smith and the other gentleman?

9 A. Correct, I believe he was the one that called
10 911, but to my knowledge we don't have his information.

11 Q. All right. Do you know one way or the other if
12 anyone tried to get his information, any law
13 enforcement, before --

14 A. I wouldn't know. I know personally I didn't.
15 I can't speak on the other deputies that were on scene.

16 Q. And when you first had contact with Travis
17 Smith, when you handcuffed him, was there any
18 questioning at all or no?

19 A. I wasn't the one that handcuffed him.

20 Q. But he was handcuffed in your presence?

21 A. Yes.

22 Q. Okay. Was he in your presence interviewed or
23 questioned by anybody at that point?

24 A. In my presence, no.

25 Q. And then what did you do end up doing then?

1 A. So after the two of them were secured in
2 handcuffs, I went with the other half, not Mr. Smith,
3 but the other half. I took him to the rear of my patrol
4 vehicle. He was secured in the back of my patrol
5 vehicle until he was assessed by the rescue for
6 injuries. I spoke to him. I saw that he had what
7 appeared to be spit on his face and slight bruising
8 beginning. After that, I took him out of handcuffs so
9 he could be properly assessed by rescue. Things were
10 calm at that point. I left him out of the handcuffs and
11 I started to speak to him which is when I started to
12 gather details about the incident.

13 Q. Okay. And you mentioned something about you
14 saw a liquid that you think might be -- you don't know
15 if it's spit on the face, right?

16 A. I wouldn't know, but it's what appeared to be
17 spit.

18 Q. Did you take any type of a swab to check for
19 DNA or anything of it?

20 A. No, sir.

21 Q. Okay. And then what did you subsequently do?

22 A. After that, the spit was wiped off of his face
23 by rescue. I took the other half to the front of my
24 patrol vehicle where I started to speak to him about the
25 incident.

1 Q. All right. And again, you reviewed the body
2 cam. Is the complete interview on the body cam?

3 A. Yes.

4 Q. And then what did you do next?

5 A. So after that, after speaking to him, I went
6 and talked to my supervisor who was Corporal Parthemore.
7 We kind of figured out what was going on. The other
8 half explained to me that he had the video of the
9 incident which we walked over to his vehicle after he
10 was able to relocate it and we pulled the video and
11 watched it from there and then we had him complete a
12 written statement and paperwork.

13 Q. All right. And you said you watched the video.
14 Where did you go to watch video?

15 A. It would have been at the other half's vehicle
16 which that would have been -- he relocated the vehicle
17 from being in the intersection to off on the shoulder.

18 Q. When you first got there, where was the
19 vehicle?

20 A. It was partially obstructing the roadway.

21 Q. What type of vehicle was it?

22 A. I don't remember exactly. I know it was a
23 black SUV.

24 Q. Okay. And did he move it or did someone else
25 move it?

1 A. As far as I believe I think he moved it. I'm
2 not 100 percent sure.

3 Q. And tell us in detail how did you view video?

4 A. He had a dash camera in his car which had a
5 small SD card. He was able to remove the SD card, place
6 it in his phone, and he located the video which showed
7 Mr. Smith, the driver, and the other two passengers in
8 the car and then from that point forward it showed the
9 incident that occurred.

10 Q. All right. Did you take the SD card into
11 evidence?

12 A. The SD card wasn't taken into evidence. It was
13 turned over to Deputy Finn who I believe somehow managed
14 to upload the video and we didn't have to take the SD
15 card for evidence.

16 Q. All right. Do you know how many video clips
17 were on the SD card?

18 A. I don't recall.

19 Q. So when you were shown the SD card, was the
20 Lyft driver the one that was locating whatever part of
21 the video you were viewing?

22 A. Yes.

23 Q. So was the Lyft driver the one that was
24 selecting when to start the video segment that you were
25 watching, where to start it in terms of chronology?

1 A. No, he handed us the video -- or he handed us
2 the entire clip from the entire road trip. We were
3 scrolling through it and just waiting to see what had
4 occurred.

5 Q. All right. Now, did he tell you that the clip
6 started at the pick-up, the video clip started at the
7 pick-up of Mr. Smith and the other gentleman and his
8 son?

9 A. I don't believe he specified.

10 Q. Do you see what I mean --

11 A. Yes.

12 Q. -- in other words, were you looking at like a
13 clip that was fast-forwarded to just before the incident
14 in the car that did not reflect the entire trip?

15 A. There were several minutes prior to the
16 physical incident occurring. One way or the other, I
17 don't remember if it started at Flagler Beach if they
18 got into the car, but I just remember we fast-forwarded
19 through to the part where the incident occurred.

20 Q. That's what I mean. Was only a part of the
21 video right when the incident occurred, right about that
22 time? Was that the only part that was recorded by the
23 Sheriff's Office to take into evidence versus all the
24 way from the beginning of the pick-up?

25 A. I believe so. I'm not sure. I wasn't the one

1 that handled the evidence that day, but to my knowledge,
2 that would have been what Deputy Finn would have done,
3 was the incident and -- the incident that occurred,
4 uploading only that portion.

5 Q. And not uploading prior to when the incident
6 occurred, not uploading or recording the video of prior
7 to the incident occurring from the pick-up point, right?

8 A. Correct. Again, I'm not sure. I didn't review
9 the video once it was uploaded to our evidence, so I'm
10 not -- I don't want to speak on behalf of him.

11 Q. No, I understand. I'm just asking what you
12 know. But you remember that there was at least several
13 minutes of video leading up to the actual incident that
14 you looked at, whether it was recorded by Deputy Finn or
15 not, you remember that?

16 A. Yes.

17 Q. Did the Lyft driver tell you where the pick-up
18 was made?

19 A. It was at a bar in Flagler Beach. As far as
20 the exact name of the bar, I don't remember.

21 Q. Was it a bar on A1A, do you remember?

22 A. I believe so.

23 Q. Do you remember the name of it?

24 A. It might have been Tortuga's. I'm not 100
25 percent, but that's what I believe it was.

1 Q. How far is Tortuga's approximately from where
2 you were at with the car, with the Lyft car?

3 A. Time-wise or mile-wise?

4 Q. Good question. Both.

5 A. I'd say it's probably a 10 to 15 minute drive
6 roughly, maybe about 8 to 10 miles.

7 Q. And from your knowledge of the county, how
8 would someone -- not saying that it was done in this
9 particular case, but from your knowledge, how would
10 someone travel from Tortuga's to the scene that you were
11 at?

12 A. So generally the quickest route would be going
13 from Tortuga's you turn left going on to A1A. You go
14 all the way -- no, I'm sorry you turn left going on to
15 State Road 100 from A1A. You go all the way westbound
16 on 100 until you hit Beltair Parkway. You start going
17 northbound on Beltair Parkway which is where you would
18 run into the intersection of Beltair Parkway and Royal
19 Palms Parkway.

20 Q. Along the route that you've just described, are
21 there other businesses that a person would pass when
22 they're traveling that route?

23 A. Yes.

24 Q. Do you know whether or not anyone from the
25 Sheriff's Office went to any of those businesses to see

1 if there was any video at the businesses that picked up
2 the travel of the car from Tortuga's to where you saw it
3 finally?

4 A. To my knowledge, no, I don't believe that was
5 done.

6 Q. So going back to the videotape, were you
7 looking at it over a phone screen or are you looking at
8 it over another type of screen?

9 A. When I reviewed the footage myself, it was on
10 the driver's phone.

11 Q. And if you remember, where inside of the
12 vehicle was the recording device mounted?

13 A. I want to say it was right on the windshield.

14 Q. Were you able to see a camera or recording
15 device on the front windshield anywhere?

16 A. I don't recall.

17 Q. In other words, is there like a separate
18 recording device and then there's a camera somewhere in
19 the car, if you know?

20 A. I don't recall.

21 Q. Okay. What was turned over to Deputy Finn to
22 record?

23 A. I believe it was the male's cell phone and the
24 SD card inside of the cell phone.

25 Q. So not what you've described as the SD card?

1 A. Well, the SD card was the card that was inside
2 of the cell phone.

3 Q. Is the SD card downloading something from
4 another device, a recording device inside of the Lyft
5 car?

6 A. Yes, so the SD card, it's a small card, maybe
7 about three millimeters long, and that was removed from
8 the camera that was inside of the vehicle, the dash cam,
9 and placed in the phone. Both of them have the
10 capability to harbor an SD card.

11 Q. All right. So the video is being transferred
12 from the SD card to a SIM card?

13 A. No, not to a SIM card. It stays on the SD
14 card. You're just able to view it on the phone.

15 Q. Okay. So it's not being transferred to another
16 type of a card or chip on the phone?

17 A. Correct.

18 Q. And then what did you do next?

19 A. After reviewing the footage, I spoke to my
20 supervisor. We went and made contact with Mr. Smith and
21 informed him that he was being placed under arrest,
22 removed him from Corporal Parthemore's vehicle, and we
23 placed him into my vehicle.

24 Q. Okay. If I already asked you this, I
25 apologize, but was the SD card taken into evidence?

1 A. No.

2 Q. Was the Lyft driver's phone taken into
3 evidence?

4 A. No.

5 Q. What was taken into evidence, if anything, in
6 terms of a physical thing?

7 A. I don't believe anything was.

8 Q. And were Miranda warnings read at any time to
9 Mr. Smith by you or in your presence?

10 A. I don't recall.

11 Q. And then after he was placed under arrest, was
12 he transported to the jail?

13 A. Correct.

14 Q. Do you remember if at the scene if you
15 interviewed -- you had contact with Mr. Smith. You had
16 contact with the Lyft driver. You briefly talked to the
17 party at the scene. Anybody else that you talked to?

18 A. Very briefly --

19 Q. By that I mean interviewed or had contact with
20 in a police capacity.

21 A. Very briefly I talked to --

22 Q. Did you interview anyone else?

23 A. Interview, no. I did very briefly speak to the
24 passenger, the other rear passenger of the vehicle.

25 Q. And that would be on the body cam?

1 A. I believe so.

2 Q. When, if you remember, did you discontinue
3 recording on the body cam?

4 A. From what I remember, it was right after
5 Mr. Smith was placed under arrest.

6 Q. Do you know if any civilian witnesses were
7 interviewed at the scene or gave their contact
8 information at the scene?

9 A. I wouldn't know. I didn't interview any
10 civilians or any witnesses.

11 Q. Who was in charge of the investigation?

12 A. It was -- I was the primary arresting officer.
13 Corporal Parthemore was also there. He was assisting me
14 in the investigation.

15 Q. Do you remember when you asked Travis Smith to
16 get off the Lyft driver if he stated, quote, you ready
17 for him, question mark, unquote?

18 A. Yes.

19 Q. Before this date, had you had any contact with
20 the Lyft driver to your knowledge?

21 A. No.

22 Q. Since then have you?

23 A. No.

24 Q. Do you have any knowledge of any of the
25 videotape or the body cam being released by the

1 Sheriff's Department on YouTube?

2 A. I know that it was. I don't know anything else
3 about it. I just know that it was released on, I
4 believe YouTube, I want to say Facebook, and I know that
5 it did make the news.

6 Q. Do you know who with the Sheriff's Office
7 released it on YouTube or Facebook or any other social
8 media?

9 A. I do not.

10 Q. And did you have any contact with the Lyft
11 driver after that?

12 A. No, sir.

13 Q. And had you ever had any contact with Mr. Smith
14 before or after?

15 A. No, sir.

16 MR. LINDSEY: That's all I have. Thank you.

17 THE WITNESS: Yes, sir.

18 MR. BAVINGTON: No questions from the State.

19 Would you like to read or waive?

20 THE WITNESS: Waive.

21 (Deposition concluded at 2:24 p.m.)

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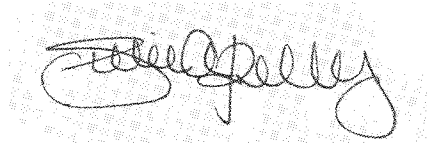
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CERTIFICATE OF OATH

STATE OF FLORIDA
COUNTY OF OSCEOLA

I, the undersigned authority, hereby certify
that the witness named herein, DEPUTY PHILIP KOTOWSKI,
appeared via video conference and was duly sworn on the
25th day of November, 2020.

WITNESS my hand and official seal this 14th day
of December, 2020.



JULIE KELLEY, FLORIDA PROFESSIONAL REPORTER
NOTARY PUBLIC - STATE OF FLORIDA
MY COMMISSION NO. GG063794
EXPIRES: MARCH 23, 2021

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REPORTER'S DEPOSITION CERTIFICATE

STATE OF FLORIDA
COUNTY OF OSCEOLA

I, Julie Kelley, Florida Professional Reporter and Notary Public in and for the State of Florida at large, hereby certify that the witness appeared via video conference for the taking of the foregoing deposition, and that I was authorized to and did stenographically and electronically report the deposition, and that the transcript is a true and complete record of my stenographic notes and recordings thereof.

I FURTHER CERTIFY that I am neither an attorney, nor counsel for the parties to this cause, nor a relative or employee of any attorney or party connected with this litigation, nor am I financially interested in the outcome of this action.

DATED THIS 14th day of December, 2020, at
Kissimmee, Osceola County, Florida.



JULIE KELLEY, FLORIDA PROFESSIONAL REPORTER

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IN THE CIRCUIT COURT OF THE SEVENTH JUDICIAL
CIRCUIT OF FLORIDA, IN AND FOR FLAGLER COUNTY

STATE OF FLORIDA,

Plaintiff,

vs.

Case No.:
18-2020-CF-667

TRAVIS S. SMITH,

Defendant.

DEPOSITION OF CORPORAL DANIEL S. PARTHEMORE

Taken on Behalf of the Defendant

DATE TAKEN: November 25, 2020

TIME: 2:25 p.m. - 2:45 p.m.

PLACE: US Legal Support
Remote Video Conference

STENOGRAPHICALLY REPORTED BY:
Julie Kelley, FPR
Florida Professional Reporter

1 APPEARANCES:

2 Counsel for Plaintiff:

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4 Office of the State Attorney
5 Felony Division
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9 Appeared via video conference

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16 (407) 644-4044
17 Appeared via video conference

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1 I N D E X

2 WITNESS:

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3 CORPORAL DANIEL S. PARTHEMORE

4 Called by the Defendant:

5 Direct Examination by Mr. Lindsey

4

6 CERTIFICATE OF OATH

19

7 REPORTER'S DEPOSITION CERTIFICATE

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E X H I B I T S

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(No exhibits were marked.)

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P R O C E E D I N G S

THE COURT REPORTER: The attorneys participating in these depositions acknowledge that I am not physically present in the deposition room and that I will be reporting these depositions remotely. They further acknowledge that in lieu of an oath administered in person, I will administer the oath remotely. This arrangement is pursuant to the Florida Supreme Court Administrative Order No. AOSC-20-16. The parties and their counsel consent to this arrangement and waive any objections to this manner of reporting. Please indicate your agreement by stating your name and your agreement on the record beginning with the State.

MR. BAVINGTON: Phil Bavington for the State, I agree.

MR. LINDSEY: Warren Lindsey for the Defense, I agree.

(Whereupon the witness was sworn.)

CORPORAL DANIEL S. PARTHEMORE called as a witness by the Defendant, having been first duly sworn, testified as follows:

THE WITNESS: Yes, I do.

DIRECT EXAMINATION

BY MR. LINDSEY:

1 Q. Corporal, could you please give us your full
2 name and spell it for the court reporter?

3 A. Daniel Parthemore, P-a-r-t-h-e-m-o-r-e.

4 Q. And how long have you been with the Flagler
5 County Sheriff's Office?

6 A. January 2007.

7 Q. Okay. And what is your position now?

8 A. I'm a Corporal for Alpha shift on road patrol.

9 Q. Okay. In this case, did you do any written
10 reports or statements to your knowledge?

11 A. No.

12 Q. Okay. What was your -- were you wearing a body
13 cam?

14 A. Yes, sir.

15 Q. Did you have a chance to look at it before
16 today?

17 A. Yes, I did.

18 Q. All right. Where does it start in terms of the
19 chronology, does it start before you get to the scene or
20 where does it start?

21 A. Yeah, when we activate our body cameras, it
22 goes back 30 seconds, so my body camera actually picks
23 up with me driving to the scene and exiting my vehicle.

24 Q. All right. And where does it end in this case?

25 A. Well, we do shut them off in between sometimes

1 to discuss the case with each other, so I don't -- I
2 know I have several videos there. My first video that I
3 took would be -- or the ending would be securing both
4 subjects and placing one in the back of my patrol car.
5 That would be where that video ends, but all of them
6 together pretty much end when we make our decision on
7 who we're going to place under arrest.

8 Q. Do you remember in this case if there were any
9 pauses to have off-record discussions?

10 A. When there was, the first pause would be when I
11 met with Deputy Kotowski when he brought me the -- in
12 this case it would be the victim, his side of the story,
13 and I brought what -- Mr. Travis' side of the story. We
14 paused it there to discuss the case to figure out, you
15 know, Travis' side of the story and the victim's side of
16 the story.

17 Q. Okay. Are you in charge of the scene or is
18 someone else in this case?

19 A. There really is nobody in charge of the scene.
20 We're all kind of working together as a team in this
21 kind of situation.

22 Q. Okay. When you got out there, had Travis Smith
23 already been secured in handcuffs?

24 A. No, when I got there, Deputy Kotowski had --
25 the victim was on the ground on his back. He had him

1 at -- because I guess Deputy Kotowski told me they were
2 actually fighting when he got on scene, so he withdrew
3 his taser, told them to separate, which they complied.
4 The victim was lying on his back and Travis, if I recall
5 right, was standing kind of -- when I got there, was
6 kind of standing to the left of him with his hands up in
7 the air, but he was still yelling.

8 Q. Okay. Did you have anything to do with either
9 of them being handcuffed?

10 A. Yes, both of them. Since the victim was
11 already on the ground, I went ahead and secured him and
12 then I ordered Travis to the ground also because he was
13 in very close proximity to us. I could still hear him
14 yelling. So I ordered him to the ground and handcuffed
15 him. So I handcuffed both of them.

16 Q. And then where was Travis taken?

17 A. To the rear of my patrol vehicle.

18 Q. Was that nearby?

19 A. It was -- I pulled up right there.

20 Q. Okay. Was he put inside, doors shut?

21 A. He was put inside and eventually the door was
22 closed after we interviewed him.

23 Q. Okay. And then was he left back there for a
24 while inside the car handcuffed, door closed?

25 A. For the -- he was back there the whole time.

1 During the investigation, he was in the back of the car.

2 Q. Okay. And then after Travis was left in the
3 back of the car, what did you do after that?

4 A. I met with Deputy Kotowski because he was
5 interviewing the victim and I got what -- the victim
6 told his side of the story and I let him know what
7 Travis told us -- told me.

8 Q. What did Travis tell you?

9 A. They were picked up by either an Uber or Lyft
10 driver, I don't know which one it was, in Flagler Beach.
11 He was asked to be brought back home to 20 Rockly Lane.
12 They stated they were driving. He said the driver,
13 which would be our victim, was driving erratically,
14 speaking something in a different language, and he was
15 either about to run a red light or approaching a red
16 light and he felt like -- you know, they were in fear,
17 so he had to stop the driver. So when the vehicle
18 slowed down, he reached through the partition and
19 grabbed the driver until the vehicle came to a stop.

20 Q. So his version was he was doing it because he
21 was fearful because of the dangerous driving of the Lyft
22 driver?

23 A. Yes.

24 Q. Were any Lyft records taken into evidence, any
25 records of pick-up's, drop-off's, payments, how long the

1 trips were in duration or time, any records like that
2 taken --

3 A. Not that I know of.

4 Q. Was this the second time that the Lyft driver
5 had taken Mr. Smith and the other gentleman and his son
6 that night if you know?

7 A. I don't know.

8 Q. All right. When you talked to Travis, was he
9 read Miranda Rights at any point?

10 A. I don't recall if I read them. No, I do not
11 recall reading him his Miranda Rights.

12 Q. When you were speaking to him, was he
13 handcuffed in the back of your car?

14 A. Yes.

15 Q. And then after that, what did you do?

16 A. From which point, after we talked to Travis?

17 Q. Yeah. In chronology, after you talked to
18 Travis, what did you do?

19 A. Went back and talked -- Deputy Kotowski briefed
20 me on the victim's side of the story. It was brought to
21 our attention that there was video inside the car, so
22 Deputy Finn and them went and had retrieved the video
23 and we watched the video to see what took place.

24 Q. Did you watch any video yourself?

25 A. Yes, sir, I did.

1 Q. Where were you when you watched video?

2 A. They actually had it on the victim's phone and
3 we had to go back to the vehicle to get it, so we were
4 standing -- well, I moved the vehicle back to the
5 sidewalk and watched it by his vehicle.

6 Q. Were you inside the Lyft vehicle when you
7 watched the video or were you outside of it?

8 A. No, he detached his phone from the dashboard.
9 We watched it outside the vehicle.

10 Q. Okay. And do you remember who -- was the Lyft
11 driver showing you the video? Was he the one that was
12 in charge of the phone, finding whatever he was going to
13 show you, whatever video he was going to show you --

14 A. Yes.

15 Q. -- was he in charge of doing that?

16 A. Yes.

17 Q. Do you remember if there were other video clips
18 on the phone or do you know?

19 A. No, I was just shown the clip from when it kind
20 of picks up, the action picks up.

21 Q. But the person that was deciding what to show
22 you on the video, was that the Lyft driver?

23 A. I don't recall who actually brought the key
24 part we wanted to see to my attention.

25 Q. In other words, what was shown to you, the

1 video, when it started, when it ended --

2 A. So what was shown to me was they were in the
3 vehicle. I can remember hearing the GPS saying like
4 next turn right, like Royal Palms Parkway or something
5 like that, so I'm assuming they were coming up Old Kings
6 Road. 95 runs over Old Kings down that way and I can
7 remember seeing the bridge there. I'm assuming I picked
8 it up on Royal Palms Parkway, is what I was watching.
9 That's what -- just listening to the GPS, it was saying
10 Royal Palms Parkway, so it was in that area where I pick
11 the video up at.

12 Q. Because I'm not as familiar with -- well, I'm
13 not familiar at all with Flagler County. Where is
14 Royal -- what is it called?

15 A. Royal Palms Parkway. If you're coming from
16 Flagler Beach like they said they were, you can take
17 State Road 100 and you make a right on to Old Kings Road
18 and off of Old Kings Road you turn left at Town Center
19 Boulevard and then right on to Royal Palms Parkway.
20 Listening to the GPS, it sounds like that was the route
21 they were taking.

22 Q. So the part that you saw was on Royal Palms
23 Parkway?

24 A. It would be -- actually it would be -- because
25 I remember seeing them going under the overpass of 95

1 going over -- which I believe they would be on -- right
2 in that area of Town Center Boulevard, Old Kings Road,
3 Royal Palms Parkway all meets around that area and I
4 believe that's where it picked up at.

5 Q. All right. Who directed Officer Finn as to
6 what to record or what not to record off of the phone?

7 A. I do not know.

8 Q. You didn't though, right?

9 A. No.

10 Q. Because sometimes you'll have a video of --
11 because they're saying that the ride started I guess on
12 A1A at a restaurant --

13 A. Yeah, in Flagler Beach. Yeah, that's where he
14 picked them up at.

15 Q. Did you have anything to do with -- when the
16 video that was retrieved by the Sheriff's Office, at
17 what portion of the ride -- what was preserved, what was
18 recorded by the Sheriff's Office versus earlier portions
19 of the ride that started on A1A in Flagler Beach? Did
20 you have anything to do with that?

21 A. As of what was taken for evidence, no.

22 Q. Okay. And then do you know if any businesses
23 along the route were consulted as to whether or not they
24 had picked up any videotape of the car as it went from
25 A1A in Flagler Beach to the scene?

1 A. No, not that I'm aware of.

2 Q. Okay. What else did you do in the case?

3 A. Well, after watching that clip of the video and
4 discussing with the other officers and deputies on
5 scene, we all came to the conclusion that Travis was the
6 primary aggressor and we all made the decision to place
7 him under arrest that night.

8 Q. And was that discussion done with a pause in
9 the audio portion of the body cam?

10 A. Yeah, usually when we discuss the cases, we
11 pause it and we step away from all of our victims and
12 suspects. We pause our cameras to discuss it. So it
13 was probably in between one of those pauses.

14 Q. Did anybody request an alcohol or drug test of
15 anybody, the Lyft driver or Travis or anybody else that
16 night?

17 A. No, we didn't smell or suspect any alcohol or
18 drugs on the driver, so that wouldn't come into play. I
19 did smell alcohol on Travis and he showed all signs of
20 being under the influence, but being the fact that he
21 wasn't driving the vehicle, he's an adult, and it really
22 didn't play into anything we were charging him with, we
23 didn't test him on scene, no.

24 Q. Okay --

25 A. As for when we got to the jail, I can't answer

1 that if the -- the detention deputies sometimes come out
2 and if they smell alcohol on somebody, they might
3 request a sample of his breath just to determine if he
4 can come into the jail or not, but I can't -- I wasn't
5 at the intake at the facility. I don't know if that was
6 given or not. That's usually just for intake purposes.

7 Q. Do you know if -- so sometimes they do that at
8 the jail, they will sometimes take an alcohol test from
9 them or a drug test from them?

10 A. Not a drug test. They'll take a breath sample
11 and it's simply for intake purposes only. Like if
12 somebody arrives at the jail and they believe him to be
13 intoxicated, they will take a sample of his breath
14 before coming into the jail because if he's above a .3,
15 they won't allow them in the jail. But it's for intake
16 purposes only.

17 Q. Who transported Travis to the jail, do you
18 know?

19 A. That I don't know. Deputy Kotowski was the
20 arresting officer. It was most likely Deputy Kotowski.
21 I could probably go through the report real quick.

22 Q. Go ahead.

23 A. Yeah, it doesn't say, but if he's the arresting
24 officer and he's the only person to go to jail, it's
25 most likely the arresting officer who does the

1 transport.

2 Q. Okay --

3 A. It just says he was transported.

4 Q. Do you know if any civilian witnesses were
5 identified at the scene and their contact information
6 taken?

7 A. There was the one civilian I interviewed. All
8 he saw was the two subjects fighting in the street. I
9 remember taking his name and passing it on, but I don't
10 see it in the original report. I know his last name was
11 Eddy, Mr. Eddy. He was in that blue pickup truck. When
12 he pulled up on scene, he just saw the two subjects
13 fighting in the street, but I don't see his name listed
14 in the report.

15 Q. So you had his contact information, his
16 address, his phone number, and you gave it to somebody?

17 A. Yeah, I gave it to -- I believe it would be
18 Deputy Kotowski. I don't see him listed in the report,
19 but he just saw the two subjects fighting in the street
20 just before we pulled up. If you watch my video, it's
21 like that blue pickup truck that's in the video in the
22 first few seconds. That would be Mr. Eddy right there.

23 Q. I think one of the officers mentioned there was
24 somebody that was like next to the Lyft car when they
25 got there. Do you know if that was the same person,

1 Mr. Eddy?

2 A. No, he was actually -- if you watch my video,
3 Mr. Eddy was in -- when I pulled up on scene and ordered
4 the subject to the ground, there was a white male
5 sitting in his pickup truck. That's Mr. Eddy. By the
6 time I reached the Lyft vehicle, there was nobody
7 standing by it.

8 Q. I saw another person out on one of the videos.
9 It looked like a civilian that was in a -- his wife
10 might have been in another car. He was talking to that
11 guy Andrew Kastel, the passenger and his son. Do you
12 remember that person being out there, that civilian
13 hanging out next to Andrew Kastel?

14 A. No, I don't recall that.

15 Q. Other than Mr. Eddy, did you get contact
16 information on any other civilian witnesses out there?

17 A. No, I don't recall.

18 Q. But you turned over Mr. Eddy's contact
19 information, his address, his phone number, to another
20 officer for that officer to statementize him; is that
21 right?

22 A. Well, I told him that Mr. Eddy saw two subjects
23 fighting in the street and I just tore my information
24 out of the book and just gave it to him.

25 Q. But you don't know if he did anything with it?

1 A. No.

2 Q. Do you remember which officer you gave it to
3 for sure or --

4 A. I would believe I gave it to Deputy Kotowski
5 since he was the reporting officer or deputy that night.

6 Q. Other than Mr. Eddy, anybody else that was a
7 civilian witness out there that you saw or had contact
8 with?

9 A. No.

10 Q. Had you ever had contact with the Lyft driver
11 before or after this?

12 A. No.

13 Q. How about Travis, any contact with him before
14 or after?

15 A. No.

16 Q. Do you know if the Sheriff's Department
17 released part of the video to YouTube?

18 A. I don't know who released it. I'm assuming it
19 has to be the Sheriff's Office because we put it into
20 evidence, but I do know it made several social media
21 websites. I don't know who released it.

22 Q. Do you remember if the Lyft driver was upset
23 about that?

24 A. Not that I know of. It was days after and I
25 never made contact with him again.

1 Q. Nobody went to the hospital though, right?

2 A. No, everybody declined.

3 Q. And did you personally take any items into
4 evidence, any pieces of anything or any evidence,
5 physical evidence yourself?

6 A. No, sir.

7 MR. LINDSEY: Okay, thank you.

8 THE WITNESS: Thank you.

9 MR. BAVINGTON: No questions from the State.

10 Would you like to read or waive?

11 THE WITNESS: Waive.

12 (Deposition concluded at 2:45 p.m.)

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CERTIFICATE OF OATH

STATE OF FLORIDA
COUNTY OF OSCEOLA

I, the undersigned authority, hereby certify
that the witness named herein, CORPORAL DANIEL S.
PARTHEMORE, appeared via video conference and was duly
sworn on the 25th day of November, 2020.

WITNESS my hand and official seal this 14th day
of December, 2020.



JULIE KELLEY, FLORIDA PROFESSIONAL REPORTER
NOTARY PUBLIC - STATE OF FLORIDA
MY COMMISSION NO. GG063794
EXPIRES: MARCH 23, 2021

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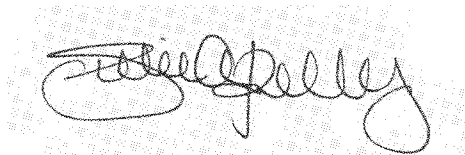
REPORTER'S DEPOSITION CERTIFICATE

STATE OF FLORIDA
COUNTY OF OSCEOLA

I, Julie Kelley, Florida Professional Reporter and Notary Public in and for the State of Florida at large, hereby certify that the witness appeared via video conference for the taking of the foregoing deposition, and that I was authorized to and did stenographically and electronically report the deposition, and that the transcript is a true and complete record of my stenographic notes and recordings thereof.

I FURTHER CERTIFY that I am neither an attorney, nor counsel for the parties to this cause, nor a relative or employee of any attorney or party connected with this litigation, nor am I financially interested in the outcome of this action.

DATED THIS 14th day of December, 2020, at
Kissimmee, Osceola County, Florida.



JULIE KELLEY, FLORIDA PROFESSIONAL REPORTER

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IN THE CIRCUIT COURT OF THE
SEVENTH JUDICIAL CIRCUIT, IN AND
FOR FLAGLER COUNTY, FLORIDA

CASE NO: 18-2020-CF-667

STATE OF FLORIDA,

Plaintiff,

vs.

TRAVIS S. SMITH,

Defendant.

REMOTE DEPOSITION OF NIHAT YALCIN AKSEZER

(Noticed as: NIHAT YALCIN AKSEER)

ON BEHALF OF: Attorney for Defendant
DATE: January 29, 2021
TIME: 8:07 a.m. to 9:48 a.m. E.T.
PLACE: Via Zoom
REPORTED BY: Stephanie R. Zeitvogel, FPR
Stenographic Reporter
Notary Public
State of Florida at large

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22 (No exhibits marked.)

23

24

25

1 COURT REPORTER: Do you swear or affirm that
2 the testimony you are about to give will be the
3 truth, the whole truth, and nothing but the truth?

4 THE WITNESS: Yes, ma'am.

5 NIHAT YALCIN AKSEZER,
6 the witness herein, being first duly sworn, was examined
7 and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. LINDSEY:

10 Q Mr. Ak- -- it's Aksezer, is that -- Aksezer,
11 is that -- did I say it correctly?

12 A Yeah, it is.

13 Q Okay. If I mispronounce it, I apologize.

14 Could you please give us -- first, thank you
15 for being with us this morning.

16 A Okay.

17 Q Could you please give us your full name and
18 spell it for the court reporter.

19 A Uh-huh. N-I-H-A-T, A-K-S-E-Z-E-R.

20 Q And what is your address?

21 A 232 Westhampton Drive, Palm Coast, 32164.

22 Q And how long have you lived there?

23 A Three -- maybe a little bit more three --

24 Q And what is your date of birth?

25 A February 27, 1973.

1 Q Okay. How old does that make you? How old
2 are you?

3 A Forty-seven -- 47 or 46 -- yeah, 48 or 47.

4 Q And are you married?

5 A Yes.

6 Q And what is your wife's name?

7 A Maria Pol --

8 Q Do you have -- I cut you off. I apologize.

9 Maria. Were you going to say something else?

10 A Maria. Yeah, Maria Pol.

11 Q And do you have any children?

12 A I have one daughter.

13 Q How old is she?

14 A She's 14.

15 Q Okay. And where were you born?

16 A Turkey, Istanbul.

17 Q And are you a U.S. citizen now?

18 COURT REPORTER: Could you repeat the place
19 where you were born?

20 THE WITNESS: Yes.

21 COURT REPORTER: I'm sorry. I didn't --

22 MR. LINDSEY: Sure. I'm sorry. You and I are
23 breaking up.

24 BY MR. LINDSEY:

25 Q Are you a United States citizen now?

1 A Yes, I am United States citizen.

2 Q I didn't hear that. Could you repeat that?

3 MR. LINDSEY: Did you hear that, Court
4 Reporter?

5 COURT REPORTER: No.

6 THE WITNESS: Yeah. Yes. I am citizen,
7 United States citizen.

8 BY MR. LINDSEY:

9 Q Sorry. And I'm -- the reason why I'm
10 repeating it is because either my computer or your
11 computer or both of us are cracking up a little bit.

12 A I am -- I am American. I am U.S. citizen.

13 Q When did you become a U.S. citizen?

14 A I think one year or maybe a little bit more.

15 Q From today, from now?

16 A Yes, yes.

17 Q And this is a question we ask everybody. It's
18 not directed at you. Have you ever been arrested
19 anywhere, any time, any place for anything?

20 A No, I don't have any criminal records, no.

21 Q And what do you do for a living?

22 A Normally my education and my job is IT. I am
23 an IT guy. I was IT manager, but now I'm doing Uber and
24 Lyft driving.

25 Q What is your -- you indicate your background

1 is in IT; is that correct?

2 A Yes.

3 Q And what is your educational and your training
4 background?

5 A University degree.

6 Q From where?

7 A From Turkey.

8 Q Okay. In software or computers or --

9 A My university degree is advertising and
10 marketing.

11 Q All right. But you have computer --

12 A Yes.

13 Q -- knowledge and --

14 A Yes, I have -- I have courses and some
15 certificates about the computer.

16 Q So you know how to do computer matters and
17 software and all that?

18 A Yes. In Turkey I was working for the
19 Microsoft and some other companies about the IT
20 business.

21 Q Okay. And -- but right now are you working
22 for Uber and Lyft?

23 A Yes, because I live in a small town. That's
24 not the best place for the IT or technology, you know
25 that.

1 Q Yes, sir.

2 Do you work simultaneously for Uber and Lyft?

3 In other words, when you're driving -- I mean, I -- on
4 my phone I have a Lyft app and I have an Uber app. Do
5 you work when you're driving for both at the same time?

6 A Yes, because I don't have any -- I don't have
7 any problem about my background check. I approved from
8 the both companies, so I'm eligible for working whenever
9 I want from the both of them any time I turn on the app.

10 Q When you're in your car, do you have an app
11 going for both of them so that someone can call you for
12 either Lyft or Uber while you're driving at the same
13 time?

14 A No, because I have just one phone, so when I
15 turn one application, I can follow the instructions of
16 just one company for, you know, picking up the
17 passengers. So I'm not working at the same time for two
18 apps or two different companies.

19 Q Because one app -- you can only have one app
20 on at the same time; is that right?

21 A Yes.

22 Q Do you have a --

23 A Yes, sir, yes.

24 Q Do you work more for -- I apologize. I should
25 have let you finish.

1 Do you work more for Lyft or for app -- I
2 mean, Lyft or for Uber?

3 A Actually, till that time that the incident
4 happened, I was mostly working for Lyft. But after I
5 have that problem, they didn't support me like I'm
6 someone who is working for them. And the first thing
7 they did -- because that man spit on my face and clearly
8 told me that he has Corona, now I have Corona.

9 That night when I called Lyft to report the
10 incident, I told them as a honest person what happened.
11 And the first thing they did is -- was suspending my
12 account because I'm Corona, I'm carrying now Corona, a
13 potentially Corona patient. And if I have contact with
14 the passengers or someone, they will have problem on
15 their side.

16 So instead of supporting me for the hospital
17 offering some, you know, medical or -- help, they
18 instantly cut me from the platform. And after that,
19 they told me when I bring the medical report which is
20 showing that I'm clean without the virus, they will
21 again remove that suspension from my account and I can
22 work. But till that time, they will call me, they will
23 support me, but only with words, nothing more than
24 through phone calls.

25 So I -- I didn't work after that. I didn't

1 send them anything, and I cut my relation. And also the
2 other reason is mentally I didn't feel secure because
3 when that accident happened, he tried to kill me. I
4 don't want to get in details because this is not your
5 question, but I wasn't ready to accept someone after
6 that incident to my vehicle.

7 So, you know, the -- after the Corona became
8 more stronger problem for our country, the food delivery
9 companies start working, the same --

10 Q The what company?

11 A The food delivery, like DoorDash, Uber Eats.
12 And so I began to work instead of carrying the
13 passenger, I decided to carry food. So I don't get in
14 touch with people who will make something to me, who
15 will attack, who will try to kidnap or steal my vehicle.
16 So now I'm working for DoorDash and Uber Eats.

17 Q What was the first one? I got the Uber Eats,
18 but what was the other company?

19 A DoorDash. Actually, DoorDash is the one who's
20 dominating the market now. It's the biggest one now.

21 Q I've never heard of that. Is it
22 D-O-R-D-I-S-H?

23 A Like door and --

24 Q Door, D-O-O-R?

25 A -- like dash. DoorDash.

1 Q Got it.

2 A Yeah, D-O-O-R.

3 Q Okay. Do you -- you said that you -- did you
4 just say that you have the coronavirus now?

5 A No, I don't have the coronavirus because I
6 warned also paramedics that night. They saw the spit on
7 my face, and they cleaned my face, and they told me I
8 don't need to go testing now because I need to wait at
9 least five days when I got the virus if I have it.

10 So after five days, I had to go and test for
11 the virus. So I waited, and later I went to the testing
12 site and have a test. Luckily, I was clean. I didn't
13 have the virus.

14 Q Okay. So did -- so you waited the five days,
15 and you got tested and the test was negative, you did
16 not have the coronavirus; is that correct?

17 A Yes, sir.

18 Q Okay. What was that -- I didn't understand
19 what you meant about the Lyft then suspending you,
20 suspending you. I took that to mean that they suspended
21 you because you had coronavirus.

22 A Yeah, you know, the big companies mostly worry
23 about suing by the customers. Because I'm a third
24 party -- I'm working like a contractor, okay? This is
25 like my business. But I'm driving for Lyft and I'm also

1 representing Lyft. So when I'm the face of Lyft driving
2 for someone which is inside my vehicle, at least if I
3 have some travel for them for the behalf of Lyft because
4 if I was me, if I was the one who attacked the
5 passengers, who tried to seduce or like harassment to my
6 passengers which is inside the vehicle, it was somehow
7 gonna be the Lyft's responsibility.

8 But when -- when he attacked me, I was at
9 least waiting like a medical support. Oh, okay. We are
10 so sorry. What happened to you? So please as soon as
11 possible go and check yourself.

12 Normally we don't pay for the medical stuff,
13 but this is something extraordinary. So we are backing
14 you on that situation. And also if you need lawyers or,
15 you know, legal support, legal advisor about the
16 situation that you have, you are not alone. I was
17 waiting for this.

18 Q But you did not get it?

19 A No, sir, nothing.

20 Q Are you -- are you upset or angry at Lyft as
21 to how they treated you? Do you feel they treated you
22 unjustly, unfairly?

23 A Yeah, I'm upset because I was five-star
24 driver. I now have problem. This is on my records. If
25 you have any, you know, opportunity to get these records

1 from Lyft, you will see. I several times returned the
2 cell phones which is expensive. And --

3 Q The what? What are they called?

4 A The -- the iPhones, the cell phones --

5 Q Okay.

6 A -- of the -- the personal stuff of my
7 passengers which is lost or forgotten by themselves when
8 they are drunk or when they drop inside the vehicle at
9 night. Several times I returned these items to the
10 owners and I also report these to Lyft.

11 And my -- there's a rating system on Lyft for
12 the drivers. The passengers are giving stars after you
13 drop them to their home or business. So my rating was
14 on the top. I was the five-star driver for them, and I
15 never had problem. So that make me upset, yes.

16 Q Okay. Did Lyft -- do you -- so you feel that
17 Lyft treated you unfairly in this matter; is that
18 correct?

19 A Yes. Yes.

20 Q Is --

21 A They didn't offer -- they didn't offer
22 anything. Sorry.

23 Q No, no, I interrupted you.

24 Did you -- have you consulted with any lawyers
25 about suing Mr. Smith or Lyft?

1 A Most of the people advised me this, actually
2 suing the company.

3 Q Suing the company?

4 A But --

5 Q Have you talked to any lawyers about possibly
6 doing that, suing the company?

7 A No. No, I -- I -- no, I didn't talk, but the
8 people -- I have some friends which is also working for
9 Uber or Lyft, you know. There's some groups like the
10 driver association, and they advised me to do this
11 because of their response to the incident.

12 But I didn't do anything because I -- because
13 actually I was in a bad shape and I -- I had a daughter
14 which I need to think about. I have some
15 responsibilities, and it wasn't the best time, the
16 coronavirus, the other situation. Financially I have
17 problems because of the business situation, so I didn't
18 go from that path. I didn't try to or I didn't do
19 anything.

20 Q Right. You may -- you may do it in the
21 future, but you have not done it yet?

22 A Maybe in the future.

23 Q Okay. Have you thought about suing Travis
24 Smith?

25 A I thought about this, I think, but after

1 getting these court papers from the state attorney and
2 the -- that was also a process which was going, I
3 decided to wait, so I didn't do anything yet about this
4 too.

5 Q You're going to wait on the civil case until
6 the criminal case is over --

7 A Yes.

8 Q -- maybe before suing Mr. Smith?

9 A Yes, because this is not my priority.

10 Q Okay. Is -- when I was watching the videos in
11 the case and the audios, I heard you call in and
12 complain about the sheriff's office, the Flagler County
13 Sheriff's Office releasing without your permission video
14 in the case. Do you remember doing that? Releasing it
15 to the press.

16 A Yeah, if you are talking about the video
17 footage which is released, yes, I complained about this.
18 Because that night deputy came, and I gave my report to
19 deputy, what happened about the incident, I signed a
20 privacy agreement with them.

21 And the problem, Palm Coast is a small place,
22 and even my face is a little bit blocked by this, you
23 know, sensor stuff. Everybody from my wife's work, some
24 of my friends called me before I saw that video because
25 everybody recognized me. That's me. So that's -- that

1 wasn't something that -- why I shared that evidence with
2 the sheriff, sheriff's office.

3 At least they need to tell me something before
4 that. Even it's not fair. I told them, you can share
5 with the attorneys, with other people that you need to,
6 but the press, the others, news channels, it's not
7 something that I approved. So you need to protect me.
8 You need to protect my rights. And this is why I
9 complained to them because they signed me a privacy
10 paper. They will keep everything for them.

11 Q Do you believe that the sheriff's office
12 violated your privacy?

13 A Some -- someone violated I'm thinking like
14 that, yes, but maybe sheriff's office, maybe. I don't
15 know, because I just gave that evidence to the sheriff's
16 office. I didn't share with anyone. I just gave to the
17 deputy.

18 Q You did not authorize them to share it
19 publicly, correct?

20 A Yeah. And when I talk with sheriff's
21 commander, that was a very high ranked member, which
22 when I went to -- then I went to court personally
23 because I didn't get the response that I wanted by far.

24 So I just drive to the courthouse, to the --
25 to see the sheriff or one of the captains or, you know,

1 the colleagues of the sheriff, and he was outside. I
2 saw the sheriff.

3 And one of his commander came next to me and I
4 told him, where am I about the incident, and I told --
5 and I asked him how that happened, because this is
6 something that I signed for the -- just for the
7 sheriff's office as evidence.

8 And he told me, We didn't share with anyone.
9 We only -- our only public relations shared on sheriff's
10 website. They took it from there. And if this is also
11 a public, you know, incident, now it's not evidence.
12 It's something that we need to share with public.

13 And it was somehow -- it sound weird to me,
14 that answer, but I can't do anything after that. They
15 just -- you know, he told me that we will remove from
16 sheriff's website. But everything was old. Now, as you
17 see, it's all over everywhere.

18 Q It's too late to take it -- for them to take
19 it back?

20 A Yes. Yes, sir, unfortunately.

21 Q When did you become a Lyft driver?

22 A I think three or four years ago.

23 Q Okay. And do -- do you do it at night or
24 during the day or both?

25 A Actually, both. Mostly I don't try to work

1 midnight, after midnight, because I have a regular house
2 life, so I need to sleep and also spend some time with
3 my family.

4 Q Is your wife employed? Is Maria employed?

5 A Yes.

6 Q What does she do?

7 A She's a nail technician.

8 Q I apologize. On my end, you broke up. Could
9 you repeat that?

10 MR. LINDSEY: Did you get that, Ms. Court
11 Reporter?

12 THE WITNESS: Nail technician.

13 BY MR. LINDSEY:

14 Q Okay. And what type of car do you drive when
15 you're -- well, say last year in 2019 -- or 2020, what
16 kind of vehicle do you drive when you do Lyft -- when
17 you did Lyft?

18 A It's a Toyota 4Runner SUV.

19 Q Okay. And what year was it -- is it? Do you
20 still have the same one?

21 A Yes. 2014.

22 Q Is it in your name or your wife's name or both
23 or some other name?

24 A It's under my name.

25 Q Okay. What color is it?

1 A Black.

2 Q Is it four-door?

3 A Yes, four-door.

4 Q Does it have a hatch -- hatchback in the back?

5 A Yes.

6 Q And how long have you owned it?

7 A Now I think four, nearly five years.

8 Q Okay. And that's the vehicle that you used
9 for both Lyft and Uber?

10 A Yes, because you need to have a good vehicle
11 to satisfy the customers. So mostly I'm trying to keep
12 my car clean and in good shape, because if I don't, then
13 I can't -- I can't get five star from the passengers.
14 So that would be a problem.

15 Q What -- where -- where -- when you're -- the
16 night or the day of this incident, what electronics did
17 you have in the vehicle, in your Toyota 4Runner?

18 A The -- I have the factory stereo system which
19 is coming from the Toyota. I have my phone, which I
20 need to see every time. But there's a magnet that I'm
21 putting -- every Lyft or that kind of driver is working
22 like that because you need to see the navigation every
23 time from your phone. I also have a dash cam.

24 Q What was the last thing, sir?

25 A Dash cam.

1 Q Okay.

2 A A camera, security camera.

3 Q Okay. And the -- first, starting with the
4 phone, is it an iPhone?

5 A No, it's a Galaxy phone, Samsung.

6 Q Is it -- is it provided to you by Lyft?

7 A No, it's my personal phone. No, personal.

8 Q So you could -- are you allowed as a Lyft
9 driver to use whatever type of phone you want?

10 A Yes.

11 Q So if you wanted to, you could use an iPhone
12 if you wanted to?

13 A Yeah, I can use any phone if their app is
14 working. There are no regulations about this.

15 Q Tell us how -- how does the app work for Lyft,
16 like in a practical sense?

17 A It's very easy. It's just when you push the
18 app, it's asking on or off. If you put it to on mode,
19 then you will be online to get requests, ride requests
20 from the driver -- passengers as a driver. So you are
21 seeing the driver or passenger's name or nickname. They
22 don't need to put their full name or real name.

23 The point is not the passengers. The point
24 which is important is the distance because you are
25 seeing the estimated distance to pick them. So when you

1 drive that distance, if it is far, it's not something
2 that you want to go or accept. Like everyone, you
3 accept which is closest to you because you will be not
4 paid when you go there.

5 After you accept the passenger, you are
6 driving there, and he or she is coming to your vehicle
7 because they can follow you from their app. They are
8 seeing where you are, how far you are from their
9 location. So they are entering your vehicle.

10 After that, you are again pushing the button.
11 The passengers, like, I accept the passenger, she's
12 inside. Now I'm driving. And all that process is
13 followed by Lyft. They are tracking you or Uber.

14 So after that, I'm getting paid by the mileage
15 that I'm driving. I'm driving to the location, dropoff
16 point. And when I arrive their location for dropoff,
17 I'm pushing the button. I drop off the passenger, and
18 I'm seeing how much I earned for that ride and waiting
19 for the other ride. This is all.

20 Q So when the -- when the -- when a person calls
21 or uses their app on their phone, the customer, do you
22 see their location on your -- on your phone where they
23 are now and where they're going to go and the number of
24 miles? Is that what you see when a -- when a request
25 comes in?

1 A Yes. Not -- I don't see the exact address as
2 a security measure because Lyft is protecting the
3 customer. I just saw the estimated mileage. And just
4 like -- you think like a pinpoint. If you leave at 20,
5 the address which is writing is like 15 or 10. So same
6 neighborhood, but not the exact apartment or window.

7 So when I arrive very close to that distance,
8 the app is updating the address, is giving the real
9 address. So I'm stopping in front of the exact location
10 to pick up the passenger.

11 Q Is there a -- do you get paid more for miles
12 during peak hours versus nonpeak hours? Is there a --
13 is there a difference in the amount of money you get
14 paid depending on the time involved?

15 A Yes, some -- yes, sometimes. Sometimes when
16 it's high demand. For example, this weekend, when it is
17 Super Bowl day, most of the people is -- they want to
18 have fun, to go out. I'm not talking now the
19 coronavirus times, but normally.

20 Also, drivers want to spend their time with
21 their family. This is something that everybody wants.
22 So they need more drivers to the field to work. So they
23 offer some bonuses these special days like Thanksgiving,
24 Christmas, or national holidays.

25 Q Thank you.

1 A You're welcome.

2 Q I was talking more in terms of just the time
3 of day and everything, because I notice on my app if I
4 go from one place to one place on a certain time, the
5 same number of miles, depending on when I use it,
6 there's a variation in how much I'm charged. Sometimes
7 I'm charged a little bit more, sometimes it's a little
8 bit less.

9 A Yes.

10 Q Does that occur or not?

11 A Yeah. Yeah, I got the question now.

12 Q I apologize if I asked it inartfully.

13 A No, no, no, it's not your fault. The thing is
14 there's something like a base -- base pay, the
15 mileage -- the money per mileage they are giving. This
16 is -- this is changing from location to location. For
17 example, in St. Augustine, I'm earning more money
18 because their rate is different. In Palm Coast, it's
19 lower than the other locations, and at Daytona, it's
20 different. Maybe this is what you're asking.

21 Q Yes, I think you explained it. If -- and in
22 this -- you said also you have a dash cam in the car?

23 A Yes, yes.

24 Q Is it your own personal dash cam or --

25 A This is my personal dash cam. Lyft and all

1 actually that kind of platforms are recommending these
2 kind of dash cams because in any case if something
3 happens. I'm not just talking this, because my case is
4 not something regular. Mostly the passengers are suing
5 the Lyft.

6 Q Making an accusation against the Lyft drive?

7 A Yes, about the driver. This is more easier.
8 So it's something like the company wants to protect
9 themselves and also their drivers, but especially for
10 themselves, so they recommend dash cams, but I have to
11 pay.

12 Q So they recommend it, but you buy it?

13 A Yes.

14 Q You put it in. It's on you financially?

15 A Yes, it's all about me.

16 Q Is -- what type of -- you know, back on this
17 particular day, what type of dash cam did you have in
18 your Toyota 4Runner?

19 A It's a normal dash cam. It's not something
20 special. It's recording because most of dash cams
21 have -- you know, when you want to record the inside of
22 cabin, the inside of vehicle, mostly it's dark. You
23 don't use the light always if you are driving. So these
24 dash cams are recording black and white. That's the
25 dash cam which records with the infrared lights, black

1 and white inside to make it brighter on the low light
2 conditions.

3 Q Because it looks like people's -- people's
4 eyes look like they were like cat's eyes or -- do you
5 know what I mean?

6 A Yes. Yes, yes. It's like, you know, when you
7 took a photo, it's like a red eye effect because the
8 infrared lights are coming from the dash cam and your
9 eyes are reflecting that laser light or infrared light.

10 Q Do you know the brand of the dash cam that was
11 in the car this particular evening?

12 A I don't remember, sir.

13 Q Did you buy it online from Amazon or where did
14 you get it?

15 A Yeah, yeah, I think -- I bought it for -- it
16 was a long time ago. It was like two years ago or four
17 years ago when I started first, but I bought it online
18 from somewhere, yeah.

19 Q So the dash cam was about four years old?

20 A Three or four years, yeah, probably.

21 Q And what does it look like, the dash cam?

22 A It's -- it's just like my hand, little, like
23 maybe four inch, maybe five inch, not more than this.
24 It looks like a camera. It's not like a spy camera or
25 something. It's hanging there, it's showing. Also has

1 a LCD screen, small LCD screen.

2 Q I'm sorry. Could you repeat that, the screen?

3 A There's a little, little LCD screen for the
4 settings. There's that screen. Tiny, but like a phone
5 screen because when you try to, you know, change the
6 settings, the other stuff, you need to see what's
7 happening or what you are setting for. So --

8 Q What -- does it have little -- does it have
9 knobs on it on the dash cam or is it a push button?

10 A At the corners of the dash cam, I -- there are
11 some buttons, push buttons.

12 MR. LINDSEY: Did you get that, Ms. Court
13 Reporter?

14 COURT REPORTER: Yeah, could you repeat your
15 answer?

16 BY MR. LINDSEY:

17 Q And it may be us, so I --

18 A Okay. The corners, the corners of the dash
19 cam has some buttons for the settings.

20 Q And what are the -- on the -- so are the
21 settings only on the corners, located on the corners of
22 the dash cam? Is that the only part of the dash cam
23 that has settings?

24 A Yes.

25 Q And what are the settings for? What is --

1 what are the settings? Describe what they are.

2 A The settings are like camera settings that
3 you -- you choose the resolution, how -- which
4 resolution are you going to record. Because if you
5 record in a low resolution, that's going to be longer
6 record time. If you make it higher resolution, you can
7 record longer. But say you want a high resolution, you
8 got -- you can record shorter, but in a sharp image.
9 You can read the license plate which is in front of the
10 vehicle -- these are that kind of settings, like
11 everything.

12 And like when you have a memory card to
13 record, sometimes you need to, you know, reset the
14 memory card or sometimes you buy a memory card, you need
15 to prepare it to use with the camera, so you need to use
16 these buttons. That's a normal process for every phone
17 or every camera. That's nothing more than that. It's a
18 normal regular dash cam, nothing more. It's not
19 something special.

20 Q But you have more experience with this because
21 of your computer and your software training, so you know
22 more about these devices probably than the average
23 person, right?

24 A About usage, yes, but I --

25 Q Is the -- I'm sorry. I talked over you. I

1 apologize. Please continue.

2 A It's something like if you use a TV, you know
3 how to use the other TV. But if you are not a TV
4 person, you are a musician or you like music, you only
5 know the stereos.

6 This is something that because I'm familiar to
7 using electronics, I can use it. If you try to learn it
8 in 30 minutes, I can learn it at five minutes. But
9 nothing more than this because it's not my profession
10 that repairing electronics or making that kind of stuff
11 more better or making the working of this stuff because
12 I was a -- like accountant. I'm an IT person, which
13 manage the -- finance -- [Audio interruption.]

14 Q Could you --

15 MR. LINDSEY: Ms. Court Reporter, are you
16 getting all that?

17 COURT REPORTER: It was breaking up right
18 there.

19 BY MR. LINDSEY:

20 Q Could you -- Mr. Aksezer, could you repeat
21 what you just said? I don't think the court reporter
22 got it. I know I didn't. You said something about your
23 background --

24 A I think that -- my background is -- I'm not
25 a -- most of the people are thinking IT person is like

1 electronics or electric person. I'm not that kind of
2 person. I'm a person which knows the softwares, which
3 knows which PC is capable of doing which work, which
4 software. So I manage this coordination with the budget
5 that companies share with me, with the people that I
6 have as resources. I'm the managing person of that kind
7 of business.

8 So if you are thinking that I am an IT person
9 like a repair person, which I repair the computers,
10 which I write the softwares, I'm not that kind of
11 person. I'm a person as an IT manager. It's something
12 different.

13 Q Is -- when you said the knobs or whatever they
14 are, the settings, high resolution or low resolution,
15 what does that mean? Is that how detailed they are, how
16 they react to the light, or what -- define those terms
17 to us.

18 A Actually, these terms are very regular terms
19 in our life now because everybody is using a smartphone
20 now. I don't need -- we don't need to discover these
21 terms now because when you have a phone, your phone has
22 a camera. All phones now has a camera.

23 And when you go to the settings before
24 recording your animal, your dog, your pet, your child,
25 your wife, there's settings for the high resolution, low

1 resolution, 4K, full HD. That means when you put it to
2 the higher, you get sharper images, crisper images like
3 you are now seeing.

4 When you watch a TV, it's saying Ultra HD.
5 Ultra HD is something like this. It's the top of the
6 level that you can get the best picture. And when you
7 get that setting, you got the best image. That's all.
8 Nothing more than this.

9 Q What did you have it tuned to that evening,
10 high or low resolution, if you remember?

11 A It's -- my -- no, I remember clearly. My
12 camera settings is always at full resolution.

13 Q Is what?

14 A Highest settings, full resolution.

15 Q And do you have a -- is there a micro SD file?

16 A Yes.

17 Q And is that -- is the micro SD file located
18 within the dash cam?

19 A Yes.

20 Q And is there a -- any other files in there or
21 any other chips in there that you know of other than the
22 micro SD file?

23 A No, just -- these cameras is just one spot to
24 put the camera at. They don't have any holes to put
25 something inside.

1 Q Where is -- go ahead.

2 A Just one tiny hole. Just one tiny hole to put
3 the storage card to record something. That's all.

4 Q And is the -- the storage file is the micro SD
5 file?

6 A Yes.

7 Q Where in your car was this device located?

8 A Are you asking me dash cam?

9 Q Dash cam, yes, sir.

10 A It's next to --

11 Q Where in your car was the dash cam located?

12 A Okay. It's just under the mirror, the front
13 mirror, inside mirror.

14 Q Is it attached? Is it stuck to the windshield
15 or does it just hang?

16 A No. There's a suction attachment which is
17 attached to the front window, you know, in front side
18 under the mirror.

19 Q And when do you --

20 A It's not too big.

21 Q When do you activate it to start recording and
22 deactivate it to stop recording when you're working as a
23 Lyft driver?

24 A I don't need to activate anything. When I
25 turn the vehicle, it's working.

1 Q So as soon as you put the ignition on?

2 A Yes. When I turn off the vehicle, it's
3 working also like two or three minutes. I don't know
4 the estimate time, but it's not cutting instantly. It
5 has a small battery inside, I think. It's still
6 continuing to work a little. After that, it cuts in
7 itself.

8 Q Does it stop recording audio and video as soon
9 as you turn the ignition key to the off position?

10 A Yes.

11 Q So it continues -- so as soon as you --
12 whenever you're in the car and you -- as soon as you
13 turn on the ignition, it starts recording audio and
14 video. Is that correct or not correct?

15 A Yes.

16 Q And as soon as you turn the ignition --

17 A Correct.

18 Q -- off, is -- it continues to record until you
19 turn the ignition off; is that correct?

20 A Yes.

21 Q All right. And how long do you keep the
22 videos before you erase them?

23 A I don't keep any videos. The video, that
24 camera makes loop recording, okay? Because it has a
25 limited storage capacity, it records on the top of the

1 other record continuously. And I don't need to watch my
2 driving, I don't need to check my daily basic stuff that
3 I'm doing, so I don't remove that card or I don't check
4 what's happening daily.

5 There's something like a security measurement
6 like that kind of incidence, so actually this is the
7 first time that I removed that card and I saw what
8 happened with the deputies that night.

9 Till this time, I never -- I never had to
10 record or use that camera for some other stuff because I
11 have my phone. If I need to record something, I use my
12 phone. It's recording better than that camera.

13 Q Can you hear me?

14 A Yeah. It's frozen, but now I can hear you.

15 Q Okay. So I guess maybe 30 seconds or so. So
16 you're saying that -- correct me if I misstate you, but
17 you're saying this is the first time you took the micro
18 SD file out of the cam -- or the camcorder since you
19 bought it?

20 A Yeah, that -- the first time. The first time
21 was the day that I bought to check how was the image
22 quality. After that, I never need to remove that card,
23 put it inside my computer and check what's happening
24 because I don't need that dash cam's low -- lower
25 quality. Not low quality, but it's a lower quality than

1 my phone's camera. So when I need to record something,
2 I use my phone.

3 So that was the second time, not the first
4 time. Actually, I'm correcting because the first time
5 was the one, the day that I remember when I bought it
6 because I want to check if it is really recording enough
7 to show the license plate or the inside clearly.

8 Q Mr. Aksezer, do you -- did you turn --
9 accidentally turn your video off? I can't see you
10 anymore.

11 A No.

12 MR. LINDSEY: Are you seeing -- Ms. Court
13 Reporter, do you see him?

14 COURT REPORTER: It's just a frozen screen
15 right now, but he was blacked out for a little
16 while there.

17 MR. LINDSEY: Okay. But do you see him?

18 COURT REPORTER: I see him frozen.

19 MR. LINDSEY: Okay. I don't even see him.

20 THE WITNESS: Okay. I can stop the video and
21 try to connect again. Maybe it will be better.

22 MR. LINDSEY: Sorry. Yeah, sometimes this
23 happens.

24 (Discussion off the record.)

25 BY MR. LINDSEY:

1 Q So where we were is we were talking about the
2 times that you had taken the micro SD file out. And I
3 think you said the first time you bought it three or
4 four years ago and then this night; is that right?

5 A Yeah, that was the second time. Yes, that
6 night was the second.

7 Q And when you took it out that night, did you
8 keep it out or did you put it back in your device after
9 you took it out? In other words, did you put it -- did
10 you load it back into the dash cam?

11 A Yeah, I load it to the dash cam.

12 Q After you took it out and let the police
13 officers look at it?

14 A Yes, after the police officers took it and
15 record the footage, I put the micro SD again inside the
16 camera because it's very tiny. Even that night I tried
17 to find it because it -- that place was dark and, you
18 know, it's very, very tiny. So instead of carrying on
19 your pocket or somewhere, the best place is the inside
20 of that camera.

21 Q No, I understand. I was just trying to
22 clarify that you put it back in after you took the micro
23 SD file out and you showed it to the police.

24 A Uh-huh.

25 Q You put it back into the dash cam to start

1 recording other rides again, right?

2 A Yes.

3 Q Correct?

4 A Yes.

5 Q And did you -- have you taken it out, the
6 micro SD file out any other time other than the night of
7 the incident to show the police? Have you taken it out
8 since that time, the micro SD file?

9 A When I came home, I again removed the micro
10 SD, and I record the incident to my computer as a
11 backup.

12 Q Okay. And this is to your laptop?

13 A Yes.

14 Q And was it the same day or a couple days later
15 that you recorded or that you transferred information
16 from the micro SD file to your laptop computer?

17 A Next day, I think.

18 Q Okay. And after that, after transferring it
19 to the -- from the micro SD file to your laptop computer
20 the next day after the incident, have you taken the
21 micro SD file out of your dash cam since that time?

22 A No, because that dash cam is not only for the
23 inside problems. The dash cam is also for the traffic.
24 So I need the dash cam. When I'm driving, that dash cam
25 is recording my driving. That means if I interact with

1 the accident, traffic accident, that's my evidence.

2 And after that incident happened, I understand
3 the importance of that dash cam more because that guy
4 that night was -- when he was choking, trying to kill
5 me, he was yelling at everyone. I'm apologizing for my
6 words, but he told these words, "He's a fucking
7 terrorist. I will kill that terrorist."

8 And everybody was shocked because there was a
9 child there with them. And when you have a child, it's
10 hard to explain your situation because they were really
11 thinking that I did something to them. And if I don't
12 have that camera, that video, maybe I have more problems
13 with the cops. So to explain myself.

14 Q Did the -- what you said that he said, that
15 you were a fucking terrorist, was that inside the car
16 that he said that, inside the car?

17 A That was something that he was yelling
18 everyone on the corner.

19 Q No, but I'm asking you, did he -- are you
20 saying that he said that inside the car?

21 A No, I didn't say inside the car. Inside the
22 car when he was choke -- trying to break my neck, he
23 said, I will kill you, something like that. No, no, the
24 other guy told -- the other guy told something like kill
25 that -- or kill something. I don't remember it exactly,

1 but he said -- and he tried to break my neck. This is
2 what I heard from the other guy.

3 Q Inside the car?

4 A And when we were outside, everybody heard
5 that. No, when we were -- that happened inside. When
6 we were outside the car, he attacked me again. He was
7 on the top of me, and he was yelling everyone there, I
8 will kill you, he's a fucking terrorist, I will kill
9 you. And everybody heard the words.

10 Q Okay. But inside the car, you know, just to
11 make it clear, inside the car, what did Mr. Smith say or
12 what did the other person say inside the car?

13 A Actually, I don't -- I don't need to tell
14 these things. Everything which is inside the car is
15 recorded on the video. And that camera is also
16 recording the words which is -- you can watch the video.

17 Q But do you remember -- if you don't remember,
18 you don't remember. I'm just asking if you remember.
19 Do you have an independent memory or not of what the two
20 gentlemen --

21 A Yeah, I can clearly --

22 Q -- said inside the car?

23 A I can clearly -- yeah, I can clearly remember
24 that the other guy when that Mr. Travis was trying to
25 break my neck, it was -- I'm lucky because he tried to

1 break my neck. If you see the video, okay --

2 Q I'm asking you just what they said, what -- if
3 you remember one way or the other. If you don't
4 remember -- if you don't remember, you can say you don't
5 remember. I'm just asking you what you remember each
6 gentleman said inside of your car, if you remember?

7 A I remember the other guy when Travis attacked
8 me, the other guy told him about something killing me,
9 kill that something. Okay? This is what I remember.

10 Q All right. Do you remember anything that
11 Mr. Travis said, Mr. Travis Smith said or not inside the
12 car, if you remember or --

13 A I don't -- I don't remember because I also --
14 [Audio interruption.]

15 COURT REPORTER: You're breaking up. Can you
16 restart your answer?

17 THE WITNESS: Okay. I don't -- I don't
18 remember.

19 BY MR. LINDSEY:

20 Q Okay. Then that's -- you're allowed to say
21 that. If you don't remember, you don't have to guess.
22 You're allowed to say you don't remember if you don't
23 remember. If --

24 A Okay. I don't remember.

25 Q Just to finish up on the -- just to finish up

1 on the dash cam. When you -- how long does the -- if
2 you know, how long does the micro SD file record an
3 event inside the car before it automatically tapes over
4 itself?

5 A I don't know. It depends on your driving. It
6 depends on the resolution. This is not something that I
7 know. I'm not professional. It is not my profession.

8 Q No. And I'm just asking because you said
9 earlier that that occurs. I just didn't know if you
10 knew if it was day or a week before it starts
11 automatically recording over.

12 A No, no, no. No, as I told you, it's on the
13 higher settings, okay? When it's higher, you know from
14 your phone, your storage became full more than before,
15 so it's not recording that -- when --

16 Q I'm sorry. You broke up.

17 A Okay. It doesn't record long. Maybe some --
18 [Audio interruption.]

19 Q Could you start -- the court reporter is not
20 getting it, Mr. Aksezer. Try to -- the court reporter
21 did not pick that up because you got shaky on us. Not
22 your fault, but your Internet.

23 A Can you hear me?

24 MR. LINDSEY: Can you hear him now?

25 COURT REPORTER: Yes.

1 BY MR. LINDSEY:

2 Q Yes, she can hear you now. Go ahead, sir.

3 A It's not recording days. It's just recording
4 some hours because it's --

5 Q Hours?

6 A Yes. It's because it's on higher settings.
7 As you know, it's -- when something is high resolution,
8 it records less because of storage.

9 Q So in this case after you were asked, I guess
10 it was within the last month or so approximately, to
11 provide additional footage of the video audio, do you
12 remember that?

13 A Yes.

14 Q And so where was that -- if by that time the
15 micro SD file would have been taped over, what was the
16 source of you being able to supply that information?

17 A I think I answered that question before. I --
18 you asked me when I removed that micro SD. I removed
19 the micro -- I told you I removed the micro SD card the
20 day after other day and recorded it to my computer as a
21 backup.

22 Q Got it. So you recorded it from -- whatever
23 you record on your computer, you recorded it on a flash
24 drive?

25 A Yes.

1 Q Got it. Okay. That's what I -- I just wanted
2 to make sure because I didn't know how it got there.

3 Did you provide -- the flash drive I got, I
4 could only find the second ride, but you had a first
5 ride with the two gentlemen and the child, didn't you?

6 A Yes. Also I answered that question to the
7 assistant state attorney. The first ride was in the
8 morning. I told you, that's the loop record, okay?
9 That's recording to the top of other record.

10 Q And again, I'm not -- don't get mad at me.
11 I'm just -- I was not a party to the conversation with
12 the prosecutor --

13 A Okay.

14 Q -- so I did not know. So you're telling me
15 this for the first time --

16 A Okay.

17 Q -- so please be patient with me.

18 A No, no, no, I'm not -- I'm patient to you. I
19 can explain anything that you ask me nicely because this
20 is your responsibility, and my responsibility is
21 answering your questions.

22 I told what happened. That micro SD has a
23 limited capacity. Okay? As I told you, it's not
24 recording that long. So when I accept rides, it's
25 continue -- even I don't accept rides, if I go Publix to

1 buy something, it's recording that ride. If I go to
2 pick up my daughter from the school, it's recording.

3 Q So was the first -- so what you're saying is
4 that the first ride with the two gentlemen and the
5 child --

6 A Yes.

7 Q -- has been recorded over and you don't have
8 that. Is that --

9 A Yes, because that was -- that was in the
10 morning. Okay? That was daytime. And at night, I -- I
11 pick up these people at midnight from the Flagler Beach.
12 Until that time, I have rides. I didn't stop. It
13 doesn't mean I only work for Lyft. I drive that vehicle
14 all day. So their first ride is not there because it's
15 erased by the system. It's making loop record.

16 Q Now I understand. Thank you for clarifying
17 that.

18 A You're welcome.

19 Q Did you -- but you did have a first ride, a
20 Lyft ride with Mr. Smith, the passenger, and the
21 passenger's son the same day?

22 A Yes.

23 Q When -- when did -- when was the first ride?
24 You say the second ride was from Flagler Beach back to
25 their house about midnight. When was the first ride?

1 A It wasn't -- maybe one, two -- I don't
2 remember what time. It was -- it wasn't late.

3 Q Was it that morning?

4 A The same morning.

5 Q The first ride, that morning?

6 A The same morning, yes, same morning.

7 Q The same morning, but morning with light out,
8 like before noon?

9 A Probably, yes.

10 Q And what do you remember -- where did you pick
11 them up on the first ride, Mr. Smith, and the other --
12 where did -- the other gentleman and the child, where
13 did you pick them up for the first ride in the morning?

14 A I picked them from a house. I think it was at
15 R Section. I believe so. It was like that location of
16 Palm Coast.

17 Q And was it -- do you remember which of the two
18 gentlemen called for the ride on their app, if it was
19 the Mr. Smith or if it was the passenger? Do you
20 remember one way or the other?

21 A I -- I don't remember because I don't remember
22 who is calling me when I pick up someone.

23 Q No, I understand. I'm just asking. So you
24 don't remember if it was Mr. Smith or the other
25 gentleman in the car that made the app call in the

1 morning to go from their house to Flagler Beach; is that
2 right?

3 A I don't remember. Yes, I don't remember.

4 Q And do you remember anything about that first
5 ride in the morning with Mr. Smith and the other
6 gentleman and the younger boy? Was it uneventful?

7 A I -- if you ask me something, I can remember.
8 It's not something that I can say something specific,
9 but --

10 Q Do you remember -- do you remember telling
11 them on the first ride from the house to Flagler Beach,
12 do you remember telling them that this was your last --
13 that they were your last fare of the day, that you were
14 going to go home and you were done for that day or
15 something like that?

16 A No, I don't remember this.

17 Q Okay. After you dropped them off at Flagler
18 Beach after the first ride, Mr. Smith, the other
19 gentleman and the boy, did you have other fares through
20 either Lyft or Uber that day?

21 A I continued to work.

22 Q Okay. And do you remember what your pickup
23 was immediately after dropping them off, the three of
24 them off on the first ride at Flagler Beach? Do you
25 remember where you picked up your next fare or customer?

1 A I don't remember, but I remember that clearly
2 I can say that I continue work.

3 Q Okay.

4 A I didn't turn off the application.

5 Q All right. Where did you drop Mr. Smith and
6 the other gentleman off and the boy on the first ride
7 that morning from their house to Flagler Beach? Where
8 was the destination where they exited your vehicle?

9 A I dropped them to the Flagler Beach.

10 Q Okay.

11 A To the beach section. I dropped them next to
12 pier.

13 Q Next to the pier?

14 Okay. So is there a restaurant there or do
15 you remember?

16 A I don't remember.

17 Q It was just a general area near the pier?

18 A Yeah, it was the beach area, the seaside.

19 Q Okay. But in terms of that ride, do you
20 remember anything out of the ordinary about that, the
21 first ride, that pops in your head that you remember?

22 A Oh -- [Audio interruption.]

23 MR. LINDSEY: She can't -- the court reporter
24 can't hear you.

25 MS. LIBBY: Counsel, I think you -- we've

1 already -- we have already gone over this. I mean,
2 he did answer that a while back.

3 MR. LINDSEY: I don't think he did exactly. I
4 mean, I think I'm moving along as good as I can.

5 BY MR. LINDSEY:

6 Q Can you hear us again, Mr. Aksezer?

7 A I am trying, but I don't know if that
8 conversation is going. I'm really becoming -- I'm
9 trying to do my best, but I -- [Zoom frozen.]

10 COURT REPORTER: I think we lost him again.

11 He was breaking up.

12 MR. LINDSEY: I'm sure he'll call back in.

13 COURT REPORTER: Okay. There he is.

14 (Discussion off the record.)

15 BY MR. LINDSEY:

16 Q Just -- I don't remember you --

17 MR. LINDSEY: Do you want to repeat the last
18 question, Ms. Court Reporter?

19 (The following question was ready back: "But
20 in terms of that ride, do you remember anything out of
21 the ordinary about that, the first ride, that pops in
22 your head that you remember?")

23 THE WITNESS: No, I don't remember anything
24 extraordinary.

25 BY MR. LINDSEY:

1 Q Thank you. And then the -- what time -- what
2 was the date of the second ride if you remember, the
3 date?

4 A The date is the date that they attacked me.
5 And I -- as I told you, these two rides -- and you told
6 me, these two rides were at the same day. One was in
7 the morning or noon. The other was at night, so the
8 date is the same.

9 Q If you don't remember, you're allowed to say
10 you don't remember. I'm just asking you if you -- as
11 you sit there now if you remember the date?

12 A I don't understand what's the purpose of the
13 question. I'm trying to be helpful, but the date is on
14 the police report which they attacked me. You clearly
15 know that more than me.

16 Q All right. But as you sit here, you can't
17 remember independently the date without looking at the
18 police report; is that right?

19 A Yeah, I don't remember the exact date now --

20 Q Okay.

21 A -- because I'm trying to forget the situation
22 and with the shape on my face.

23 Q Okay. I'm allowed to ask you questions. If
24 you don't remember, you're allowed to say you don't
25 remember, like I said.

1 The second ride, what time did you pick the
2 three people up, if you remember?

3 A I don't remember. Everything is on
4 application and we -- you can request this time and
5 schedule by Lyft. Everything is on the records.

6 Q And again, sir, if you don't remember, you
7 just say you don't remember. That's okay.

8 A I don't remember.

9 Q Where did you -- on the second ride, do you
10 remember -- do you have an independent memory as you sit
11 here now where you picked them up? If you remember.

12 A Yeah, I clearly remember.

13 Q Okay. Where did you pick them up?

14 A I'm clearly remembering that I picked them
15 from the gas station because she called me. If you
16 read -- if you watch the records, he was swearing to my
17 wife when he called me.

18 Q Who, the passenger or who was swearing to your
19 wife?

20 A The passenger, the passenger. When I drive
21 there, I was looking for him. He wasn't show up, so I
22 called him. And on that video footage, it's also
23 recorded there. I'm talking -- I'm talking with him.
24 I'm talking --

25 Q You're talking not to Mr. Smith, but to the

1 passenger, correct?

2 A I'm talking with Mr. Travis. I'm asking,
3 here, my friend, I'm here for you. Where are you? I'm
4 looking --

5 Q Go ahead.

6 A He -- and he's telling me that I will fuck
7 your wife. I don't understand what you are talking
8 about. And she, blah, blah, blah, and he swear to me.
9 He wasn't -- I don't understand why he did this. At
10 that moment, I think that I need to leave them. Okay?
11 I need to decline that ride. That tell me something
12 like that from my inside as a -- it was a feeling.

13 But later, I remembered they have a child,
14 they have a little one, okay? They have a little child.
15 So it was midnight, and it was hard to find Lyft drivers
16 these days because of the virus. So I swear to God I
17 accept them for the child because I don't want to leave
18 them there with that child after midnight. So I accept.

19 Q And you said you --

20 A And I picked -- I picked them from the gas
21 station, sir. This is your answer.

22 Q Okay. Thank you. Which gas station? What
23 was -- is it a -- what type of -- what was the type of
24 gas station that you picked them up at? Was it like a
25 Mobil station, a Shell station? If you remember.

1 A It's -- actually, it's just next to the
2 Mexican restaurant. And we have just one gas station at
3 Flagler Beach beach side on the A1A. It's next to A1A,
4 just across the pier.

5 Q Okay. And do you remember if -- on the phone
6 if you -- who you were talking to? Do you remember if
7 it was the passenger or Mr. Smith, if you remember?

8 A I exactly --

9 COURT REPORTER: Can we -- can we hold on just
10 one second? I think that we lost Ms. Libby.

11 MR. LINDSEY: Okay. We'll wait. She'll come
12 back on. Good. Thank you. We lost the
13 prosecutor.

14 (Recess from 9:28 a.m. to 9:31 a.m.)

15 BY MR. LINDSEY:

16 Q So when you picked them up at the gas station,
17 do you remember the route you took?

18 A Yes.

19 Q If you don't, you don't.

20 A Actually, your last question was who I talked
21 with. I remember your question.

22 Q Okay. Go ahead.

23 A I clearly remember that I talked with
24 Mr. Travis.

25 Q Okay. And when you picked them up, where were

1 people sitting in your car? Where were the three people
2 sitting in your car?

3 A Mr. Travis was sitting just behind me. The
4 little one was sitting between them. And the other guy
5 was --

6 MR. LINDSEY: No, she's on.

7 Sorry. My receptionist just came in to say
8 that you called to tell her you're off.

9 No, we're on.

10 BY MR. LINDSEY:

11 Q Sorry, Mr. Aksezer. Go ahead.

12 A Okay. The one who attacked me was sitting
13 behind me. The little one was in the middle between
14 them. And the other one was sitting on the rear side of
15 the passenger seat.

16 Q Okay. And after you picked them up at the gas
17 station, what was the route that you took?

18 A The same road that I came there. I -- the
19 thing is, I don't choose the path or I don't choose the
20 road. The Uber or Lyft is using the Google Maps, okay?
21 When I want to drive, I'm just seeing the maps, Google
22 Maps, and it's giving me direction by voice because I
23 can't distract by watching the -- checking my phone
24 every time. Mostly I'm listening to directions of the
25 navigation application. So I took them from Flagler

1 Beach, and I began to drive from the Google Maps which
2 directions that the Google Maps instruct me.

3 Q All right. Do you remember -- I know you were
4 following the Google Maps. Do you remember the streets
5 and the routes that you took independently?

6 A Yeah, I remember because that was the same
7 route that I dropped them, the same in the morning when
8 I drive them to -- for them for the Flagler Beach. I
9 drive from -- first I picked up from A1A.

10 Q Okay.

11 A I turned to 100.

12 Q You turn -- do you make a right turn or left
13 turn? Just -- just take us through your route by saying
14 right, left.

15 A Then I took them from the gas station. I
16 turned to A1A, left to north. After that, I make a left
17 turn to 100. I drive all the way to the intersection of
18 Old Kings Road. I turned right from the Old Kings Road,
19 and I came to the intersection of Pine Lakes Way Road.
20 And I turned left from there, and I followed the road.
21 And these are also all recorded by the Lyft. You can
22 request my route from them.

23 Q Do you remember who -- which app, which
24 person's app called you for the ride, if it was the
25 passenger or Mr. Smith, or do you not remember?

1 A You asked that question again. I don't
2 remember who called me.

3 Q Okay.

4 A But I remember who I talked with.

5 Q But you don't know who --

6 A Actually, no, no, no, I remember. I remember
7 the second -- yeah, I remember. I clearly remember
8 because the second ride -- I'm talking about the second
9 ride, the ride that the incident happened. It was --
10 the user name was Travis, okay? Because I can't see
11 after -- normally you can't check who is calling you or
12 who are you driving for. But then someone try to kill
13 you, you want to know who is this guy, who is trying to
14 kill you.

15 So after I came home, I checked from my app.
16 Also, I called the Lyft to report the incident, called
17 them and told them that I had been attacked. And they
18 told me they will deactivate that person. They told
19 also the name, the user name clearly on the phone. And
20 they told me this is unacceptable by their policy, and
21 they will deactivate Mr. Travis instantly. This is what
22 they told me. So I know -- this is your answer, I
23 think.

24 Q All right. Do you remember if any of the
25 roads that you were traveling on had a speed limit of

1 25 miles an hour after the second ride back to their
2 house?

3 A The thing is, I don't speed. Actually, I know
4 the speed limits took -- this is your answer -- because
5 I'm using Google Maps, and Google Maps is always showing
6 or warning about the speed limits when I am speeding.
7 And as I told you, I'm a five-star driver with no
8 criminal report when I'm driving about speeding or about
9 a traffic accident.

10 Q All right.

11 A I can clearly say that, sir. I'm a safe
12 driver.

13 Q Thank you. Do you remember if while you were
14 driving if you were ever exceeding the speed limits on
15 the roads when you were driving back on the second --
16 going home from Flagler Beach to their house, do you
17 remember?

18 A No, I didn't speed. I don't remember anything
19 like that because I didn't do. I was --

20 Q Do you remember if you --

21 A I never speed because especially if you are
22 talking about when I picked them, there -- there was a
23 child, okay? And I have 14-year-old daughter. And as a
24 dad, as a father, I know how I need to keep them safe.

25 Q All right. Do you remember if on the route

1 back on the second -- on the trip from Flagler Beach to
2 their house, do you remember if you either rolled
3 through or ran any stop signs or red lights?

4 A No, I did nothing because I don't need to do
5 that kind of thing also. There wasn't any traffic. The
6 road was all empty without any vehicles, and I wasn't in
7 a rush. Probably that was my last ride because it was
8 midnight. I was planning to go home, so I wasn't in a
9 rush or hurry to do anything.

10 I was driving safely. And the problem, that
11 guy, when he attack, he attacked me at the red light
12 when it was a crossing section of that intersection, the
13 Belle Terre intersection. And the guy attacked me. As
14 you see the video footage, they run from the vehicle,
15 they jumped.

16 Also, I jumped from the vehicle, but later I
17 recognized there was -- the child was inside the
18 vehicle. They didn't pick up the child. So I run
19 beside the vehicle. The vehicle was moving. And
20 because it's moving, I can't get inside the vehicle, so
21 I opened the door and I pushed with my hands to the
22 brake and stopped the vehicle.

23 And later, the father of that child came
24 inside the vehicle and took the child. And at that
25 moment, then Travis came again and attacked me from my

1 back again. Then I was trying to stop the vehicle.

2 Q When you -- what was the intersection that you
3 said that this first happened?

4 A Pine Lakes Way. Pine Lakes and Belle Terre.

5 Q Were you on Pine Lakes Way or were you on
6 Belle Terre? Like you're coming to --

7 A I was --

8 Q -- a red light?

9 A I -- I -- the direct light -- direct light is
10 the intersection of Pine Lakes Way. I was on the Pine
11 Lakes.

12 Q And was the light red when you were
13 approaching or green if you remember?

14 A The light was -- actually, I don't remember
15 exactly, but I was driving normally until that time, but
16 at that moment he attacked me.

17 Q Were you going to go through that intersection
18 or were you going to turn right or left at that
19 intersection where the light was?

20 A I was planning to turn right, so --

21 Q So you would slow down to turn right?

22 A Yes.

23 Q I think I might have finished all my
24 questions. I've just got to look real quick.

25 A Uh-huh.

1 MR. LINDSEY: I think that's all I have.
2 Thank you very much for answering my questions
3 today. I don't know if the State has any
4 questions.

5 THE WITNESS: You're welcome.

6 CROSS-EXAMINATION

7 BY MS. LIBBY:

8 Q I just have a few questions. From this
9 incident, did you have any -- was there any damage to
10 your vehicle?

11 A Yeah, he damaged the protection and some
12 damages to the door, but it's not something so big that
13 I need to report, like a police report. And I --
14 actually, I wasn't chasing all of these things because
15 if you see my pictures, I already had some physical
16 damage from that incident.

17 Q And that was going to be my next question.
18 The medical bills that we have from you, are there -- is
19 there anything -- are there any additional medical bills
20 from this incident that we do not have?

21 A Actually, they are continued -- still
22 continue -- maybe it's the same bill, but every week or
23 every two week I'm receiving these, you know, invoices,
24 and I think they transferred that payment to a third
25 party now to get the money from me. I didn't send to

1 you, I think.

2 Q Okay. But are there any -- other than the --

3 A No, no, after -- no, after you send me for the
4 medical report after the incident, I didn't go or have
5 some extra doctor expense or any examination.

6 Q Okay.

7 A That's all. Just one day I went there, but
8 I'm still dealing with these invoices.

9 Q Okay. Okay.

10 MR. LINDSEY: What was the word that you used,
11 the last word, emotion? I didn't understand your
12 word, that you were dealing with the -- you said
13 emotions?

14 THE WITNESS: Invoice. Invoice. No, no, no,
15 invoice. They are sending still the payment
16 invoice.

17 MR. LINDSEY: Invoice. I apologize.

18 THE WITNESS: Invoice.

19 MR. LINDSEY: Okay. I got it.

20 THE WITNESS: Yeah, yeah.

21 MR. LINDSEY: I got it. I apologize.

22 THE WITNESS: Because its payment due date,
23 you know, they are trying to get their money and
24 they are sending.

25 MR. LINDSEY: I apologize for interrupting

1 you. I just didn't get that word.

2 MS. LIBBY: No problem. I -- I do not have
3 anything further. And have you ever been
4 deposed -- counsel, do you have any other
5 follow-up?

6 MR. LINDSEY: Just a quick. I don't think I
7 got the invoice.

8 REDIRECT EXAMINATION

9 BY MR. LINDSEY:

10 Q What was the invoice for, Mr. Aksezer?

11 A The invoice is for the medical check, medical
12 report after the incident.

13 Q Got it. Do you remember how much it was for,
14 the amount about?

15 A I don't remember, but I'm sending these
16 invoices to the state attorney's office, so you can
17 check with them.

18 Q No, I will.

19 Was it paid by your insurance or is it still
20 owed?

21 A I don't have any medical insurance.

22 Q So it's still owed?

23 A So I owe them some of, yes.

24 Q Got it. I just wanted to ask that clarifying
25 question. Thank you, sir.

1 A You're welcome.

2 MS. LIBBY: All right. Have you ever had --
3 have you ever been deposed before?

4 MR. LINDSEY: Have you ever had this --

5 THE WITNESS: No.

6 MR. LINDSEY: -- like this -- okay.

7 MS. LIBBY: Do you want to explain to him read
8 or waive or do you want --

9 MR. LINDSEY: Yes. No, I can do it if you
10 want.

11 Mr. Aksezer, if -- if we have your
12 deposition -- right now the lady, Stephanie, in the
13 other box has been taking down what you and I and
14 what Ms. Libby have been saying. If it's typed up
15 into like a written form, you have a right to read
16 it if you want to. You can't change anything that
17 the court reporter put down, but if you -- you can
18 read it to see if you believe she was accurate. If
19 you think she wasn't, you can note it on an errata
20 sheet. Or you can waive reading of it and say I
21 don't care to read it if it's typed up.

22 Would you like to read it if it's typed up or
23 would you like to waive reading if it's typed up?

24 THE WITNESS: No, I believe what she typed, so
25 I accept what she typed.

1 MR. LINDSEY: Okay. Thank you very much.
2 That's all we have.

3 THE WITNESS: You're welcome.

4 MR. LINDSEY: Thank your for your patience and
5 the time.

6 THE DEPOSITION WAS CONCLUDED

7 STIPULATION

8 It was stipulated by and between the respective
9 parties and the deponent that the reading and
10 signing of this deposition be waived.

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CERTIFICATE OF OATH

STATE OF FLORIDA)

COUNTY OF BAY)

In my capacity as a Notary Public of the State of Florida, I certify that on the 29th day of January, 2021, at 8:07 a.m., NIHAT YALCIN AKSEZER personally appeared before me and took an oath or affirmation for the purpose of giving testimony in the matter of State of Florida vs. Travis S. Smith.

Produced Identification. Type of Identification

Produced: Driver's license.

DATED this 3rd day of February, 2021.

STEPHANIE R. ZEITVOGEL, FPR
Notary Public - State of Florida
My Commission No. GG145742
Expires: October 27, 2021

CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF BAY)

I, Stephanie R. Zeitvogel, Stenographic Reporter, do hereby certify that I was authorized to and did stenographically report the deposition of NIHAT YALCIN AKSEZER; that a review of the transcript was not requested; and that the foregoing transcript, pages 1 through 63, is a true and complete record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, or attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 3rd day of February 2021, at Panama City, Bay County, Florida.

Stephanie R. Zeitvogel, FPR

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