

No.

IN THE
SUPREME COURT OF THE UNITED STATES

JOHN GOODMAN,
Petitioner,

v.

STATE OF FLORIDA,
Respondent.

**On Petition for Writ of Certiorari
to the Florida Fourth District Court of Appeal**

**APPENDIX TO
PETITION FOR WRIT OF CERTIORARI**

VOLUME II

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COUNSEL FOR THE PETITIONER

1 again, consider to be nonmaterial and
2 non-Brady, we'll do what we can, and we
3 have been. We've been working pretty well
4 together at getting the Defense whatever
5 information they're asking for --

6 THE COURT: Okay.

7 MR. JOHNSON: -- in good faith.

8 THE COURT: All right. So as a
9 starting point, without prejudice for the
10 Defense asking for further remedy, I'll go
11 ahead and grant the motion to the extent
12 that it permits the Defense to depose
13 the -- re-depose Investigator Snelgrove on
14 that issue, and to depose the person that
15 may be identified as to whom he spoke with
16 with regard to the issue of sudden
17 acceleration and whether that's a real

18 thing or just a mistake of -- of

19 circumstances. Okay.

20 Next issue up?

21 MR. RICHARDSON: I can argue the
22 next

22 one, Judge.

23 THE COURT: Which one do you want
24 to

24 take?

25 MR. RICHARDSON: This would be
26 number

1 one.

2 THE COURT: Okay. Defendant's
motion

3 for disclosure of witness who Defendant
4 told the night of the accident he had gone
5 to the barn to call 911?

6 MR. RICHARDSON: Yes.

7 THE COURT: Okay.

8 MR. RICHARDSON: Once again, I
have

9 some documentation for the Court , but

10 they're all documents that had been

11 provided in discovery, but they're helpful

12 to the Court as I make my argument.

13 THE COURT: Thank you, thank you
very

14 much.

15 MR. RICHARDSON: And just so

16 Mr. Johnson knows what they are the
17 discovery response. There's the case.

18 MR. JOHNSON: Okay.

19 MR. RICHARDSON: Great.

20 THE COURT: Thank you.

21 MR. RICHARDSON: Your Honor, as to
22 this motion, there is evidence that while
23 on the scene, Mr. Goodman told someone that
24 he went to a barn to call 911 for help. At
25 the first trial, and as cited to in the

1 motion, the State argued that Mr. Goodman,
2 in essence, made that up. And if -- you
3 can see from the motion, on page 3 of the
4 motion, the State's closing argument, in
5 the middle of that quotation, is that while
6 the Defense -- and he wants you to believe
7 that he went into this barn and drinks
8 alcohol. While the Defense team over here,
9 along with the Defendant, four men went out
10 to Chris Kampsen's barn and that's how the
11 Defendant knew what it looked like inside.
12 And then they came out to the back of the
13 barn, and they came over the fence to see
14 that -- to make sure he could get over the
15 fence so that his story would hold up in
16 court here.

17 So the State did accuse Mr. Goodman

18 of lying about that, and that the only
19 reason that he knew what the inside of the
20 Kampsen barn looked like was because he and
21 his then lawyers went there several days
22 after the accident.

23 There's evidence in the State's own
24 discovery that Mr. Goodman did tell someone
25 on the very night of the accident that he

1 had gone to a barn to call 911. It's just
2 not clear who that person is, your Honor,
3 and I need to go through the specifics of
4 the discovery to show that to you.

5 THE COURT: Okay.

6 MR. RICHARDSON: The State's
 response
7 in there -- on their response to the
8 Defense motions, it says, as to motion one,
9 the requested information has previously
10 been provided in original discovery on
11 June 7, 2010, and again on July 18, 2013,
12 including report and transcribed statement
13 of paramedic, Alfredo Schroeder. What's
14 important is that -- why it's so important
15 is because as the rule, rule 3.22 of
16 subparagraph B, subparagraph one,

17 subparagraph three little i's, requires the
18 State to provide any written or recorded
19 statements or the substance of any oral
20 statements made by the Defendant, including
21 the name and the address of any person who
22 witnessed the statements, so simply
23 referring to a report and a statement does
24 not satisfy the obligation, we would
25 submit.

1 Then you look at the State's
2 discovery response, your Honor, which is in
3 the which is in the packet that I gave
4 you it's this document right here, your
5 Honor.

6 THE COURT: That's not helping. I
7 can't see that.

8 MR. RICHARDSON: Doesn't help you
9 very much?

10 THE COURT: That's faded.

11 MR. RICHARDSON: It is faded.

12 THE COURT: I got it right here.

13 MR. RICHARDSON: Best copy we got.

14 THE COURT: All right, go ahead.

15 MR. RICHARDSON: There's a spot on
16 that discovery checklist which says,
17 statements of Defendant, and it's left

18 blank and then at the bottom it says,
19 please see attached. What is attached is
20 this, your Honor, two pages entitled,
21 original discovery. The Court has that.
22 One of the things that is listed there on
23 page 1 is Alfred Schroeder, sworn
24 interview, and on page 2, N F I R Fire
25 Incident Report slash P B C fire slash

1 rescue.

2 We attached the interview of
3 Mr. Schroeder, which is referenced in the
4 State's discovery response, and
5 Mr. Schroeder states, on page 2 of that
6 response -- on that statement -- this is
7 the questioning. And what was your first
8 assessment of him; do you know, what
9 transpired when you first made contact with
10 him. Answer, I was -- went to the truck to
11 start getting equipment ready, and my crew
12 went and spoke with him directly. And then
13 he was brought into the back of the truck
14 where I was.

15 On page 3, the questioner asks, okay,
16 and did he admit to drinking at all. And
17 Mr. Schroeder said, my crew said they heard

18 it. I didn't personally hear him say that.
19 On page 4 , Mr. Schroeder is asked,
20 all right, and did he say why he left or
21 anything like that, the answer is, he said
22 he left the scene to go to a barn down
23 120th to call for help. The -- so that's
24 what's referred to. And I submit Your
25 Honor that this is not -- it's not clear

1 that Mr. Schroeder is the person who
2 actually heard that statement or if there
3 are any other witnesses who heard that
4 statement because in his statement, he
5 refers to his crew overhearing other
6 things.

7 Essentially, the same statement is
8 made in the fire rescue report. It's on
9 page 3 of that document, your Honor, up at
10 the very top. It said, observation survey,
11 arrived to meet patient in back seat of
12 P.B.S.O. vehicle. Patient states he was in
13 a car accident , left the scene and walked
14 down the road to a barn to call 911.
15 Again, it's not clear who actually made
16 that statement.

17 In addition, your Honor, I've

18 provided the Court with a transcript of a
19 radio conversation between a male voice and
20 a female voice. The Court has that?

21 THE COURT: Yes.

22 MR. RICHARDSON: Okay. And it
says,

23 male voice -- this is, obviously, a fire
24 rescue or law enforcement or fire rescue
25 transcript. It says, male voice,

1 unintelligible, a 46-year-old male patient
2 involved in a signal four. Patient
3 apparently left the scene, walked down
4 approximately a quarter mile, half a mile
5 down to a barn off of one of our -- off
6 Lake Worth Road and called 911 from there.
7 This person has never been identified, and
8 this person either heard that statement or
9 was told that Mr. Goodman made that
10 statement.

11 Because of the -- we submit the
12 vagueness of what this information tells
13 us, we are asking the Court to order the
14 State to comply with the rule and
15 specifically name and give the addresses of
16 any witness who heard Mr. Goodman make the
17 statement referenced in Mr. Schroeder's

18 statement and in the report and in the
19 radio transmission.

20 THE COURT: All right.

21 Mr. Johnson.

22 MR. JOHNSON: Well , Judge, where
do I

23 begin. First, the referenced closing
24 argument about going to a barn, the
25 Defendant did, in fact, go to a barn.

1 There's a trailer attached to a barn. So
2 it's not inconsistent with the facts that
3 were -- that came out at trial. What the
4 State was -- was addressing here, was it --
5 wasn't Kampsen's barn, it was Pemberton's
6 barn next to her trailer. So there's no
7 inconsistency there.

8 Number two, the Defense has
9 everything the State has. They have
10 deposed two of the fire medics, Mock and
11 Perreault, already. They have the
12 statements and the report of Schroeder, who
13 says he went to a barn. The State's not
14 contesting he went to a barn, that he said
15 that. The State believes it's Pemberton's
16 barn, which the facts would indicate.

17 With regard to other fire medics that

18 may have been there, the Defense, we have
19 obtained -- and P.B.S.O. personnel, we've
20 obtained the names that go with all the
21 I.D.s that were at the scene peripherally,
22 traffic wise or that were there based on
23 CAD, and we have a jolly day that we have
24 set up with 14 depositions. So if any of
25 those fire medics or any of those law

1 enforcement officers know anything more
2 about this issue, that will be discovered.
3 This is not information that's in the
4 possession of the State. We've - given
5 everything, and we do believe that that
6 transcript would be Schroeder's. It's
7 likely that it's Schroeder because
8 everything points to the fact that
9 Schroeder is the one who said that the
10 Defendant said he went to a barn. And,
11 again, we're not contesting that.
12 Pemberton was right adjacent, connected to
13 a barn.
14 THE COURT: Was there any -- any
15 downside, from your perspective, if I were
16 to just file a written response? I mean,
17 you know, that seems to make sense in light

18 of the way everything unfolded, but I -- I
19 don't know that they're -- I think the
20 Defense is entitled to at least a written
21 response to their motion, their discovery
22 to -- and so just put in writing what it is
23 you've told us.

24 MR. JOHNSON: I believe I did put in
25 writing that the State believes it's

1 Perreault -- not Perreault -- yes, not
2 Perreault, Schroeder, I'm sorry, that made
3 these -- that -- that reported hearing
4 these statements from the Defendant. We're
5 aware of nobody else that did. Clearly,
6 everybody who was there or that was at the
7 scene will be, that's known --

8 THE COURT: So you're saying that
9 there's a bunch of depositions scheduled.

10 MR. JOHNSON: Yeah, there are, but
 we
11 responded to what we believe we have.

12 THE COURT: So you got these
13 depositions scheduled; Mr. Richardson?

14 MS. COLLINS: 21st.

15 MR. JOHNSON: January 21st , Judge.

16 THE COURT: All right , then I'll do

17 this, I'll deny it without prejudice.

18 MR. JOHNSON: Sure.

19 THE COURT: It sounds like everything

20 that - - I don't know what you guys know,

21 but it sounds like everything that might be

22 available is on the table, coming up. So

23 I'll go ahead and deny it without

24 prejudice, see how the depositions go. If

25 there's any unanswered questions that you

1 feel you're entitled to an answer to, let
2 me know by way of a motion, give the State
3 a head's up on that.

4 MR. RICHARDSON: Thank you.

5 MR. JOHNSON: Thank you.

6 THE COURT: Okay. So that was issue
7 number one. All right. Where does that
8 take us to? I've got three, five and
9 seven. Defendant's motion to disclose
10 names of witnesses; is that the same thing?

11 MR. RICHARDSON: No, your Honor.
12 This -- your Honor, we have -- we have
13 the Defense has been, for a very, very long
14 time, attempting to find out the names of
15 two males who were present at the scene,
16 very, very early on, and who we believe
17 made two 911 calls, one right after the

18 other, explaining what it was that they had
19 seen. Those witnesses had never been
20 identified, and several days after the
21 accident, one of them went on Channel 5,
22 did not want his identity disclosed,
23 wearing a hoodie, and said, I was there, I
24 saw what I saw, and I told the Wilson
25 family what I saw, but I don't want my

1 identity disclosed. So we've been trying
2 for a very long time to get to the truth of
3 what that person may have seen. And I, as
4 evidenced by the motion, sent letters to
5 counsel for the Wilson family, asking them
6 if they -- because of the fact that the
7 witness said he had told the Wilson family
8 about that, they would please research this
9 and get back to us. And we were told, we
10 do not have that information.

11 Last evening, Mr. Johnson phoned me
12 and told me that he had had the
13 conversation with counsel for the
14 Plaintiff, and I'll let him describe that.
15 They have given us now a name and an
16 address, but I'll let Mr. Johnson explain
17 what he learned.

18 MR. JOHNSON: Well , Judge, just a
19 couple of preliminary. The motion was
20 filed November 25th, so it is a long time
21 but it's not forever. We -- the State
22 initially also reached out to the family's
23 attorney -- attorneys. We got a negative
24 response.

25 Obviously, we take this very

1 seriously, that the Defense is asking for
2 this. And as I've said before, we're
3 trying to accommodate, even though the
4 rules don't require US, to actually
5 investigate for them. They also
6 investigated. The first information we got
7 was negative.

8 Yesterday, I felt that the Defense
9 would have a good argument to depose the
10 mother and father of Scott, and -- so I
11 just reached out one more time to both
12 Plaintiff's attorneys, both Mr. and
13 Mrs. Wilson, and I got a call back from
14 Mr. Searcy that, indeed, he did have the
15 information that -- of one of the young men
16 that was there. We've since handed it
17 over. As soon as I found out about it last

18 evening, I called Mr. Richardson. So that
19 should be moot at this point. Obviously,
20 if there's some issue with -- with it; we
21 can bring it back before the Court, but I
22 just want to make sure that the record is
23 clear that we've done everything we can to
24 accommodate, even though the rules don't
25 require us to, to accommodate Defense.

1 THE COURT: Mr. Richardson, any
2 follow-up on that?

3 MR. RICHARDSON: Just some -- yes,
4 sir, just some additional information.

5 The initial letter sent to counsel
6 for the Wilson family was on July 11th, and
7 there's a second letter on July 24th. And
8 I want to make it very clear to the Court
9 and the Wilson family. I specifically said
10 in that letter, we have no desire to depose
11 Mr. and Mrs. Wilson. We don't want to do
12 that.

13 MR. JOHNSON: That is true.

14 MR. RICHARDSON: And that letter is
15 in the record. And we're grateful now that
16 on the eve of this hearing, we now are
17 being provided this information. But I

18 want it clear, we never, ever wanted to do
19 that. That's why we filed the motion.
20 THE COURT: Okay. Well , I'll -- I'll
21 deny the motion in one regard. Half of it ,
22 it's moot because the names have been
23 discovered and provided. The other one, I
24 think it's the type of information that's
25 equally available to both sides, through

1 investigation, and the State doesn't have
2 unique possession of that information. If
3 the State comes into that information, they
4 shall disclose it to the Defense, as the
5 rules require, but they don't have it, and
6 they're not under a duty to go find it at
7 this point.

8 So I'll deny it. But, again, you
9 might discover that the way it unfolded to
10 me, it seemed as though the two people were
11 together, and I'm guessing, once you depose
12 the one person, he will say, oh, yeah, I
13 was with my buddy, Joe, and you probably
14 are gonna find out who the second person is
15 pretty soon.

16 Do you have a deposition scheduled --
17 you just got that information last night?

18 MR. RICHARDSON: Early this
morning.

19 THE COURT: And any objection to --
20 I'm guessing, you'll want to set that depo;
21 is that correct?

22 MR. RICHARDSON: Yes.

23 THE COURT: Is there any --

24 MR. JOHNSON: We've listed this
25 individual on a witness list , so --

1 THE COURT: You're expecting -

2 MR. JOHNSON: -- we're expecting a
3 depo.

4 THE COURT: -- to take a deposition.

5 All right. Well , I'll -- let me say it
6 this way: I'll deny it without prejudice
7 as to the second individual. My
8 preliminary to take on is that the State's
9 not obligated to provide that, but it
10 sounds like you guys are going to figure
11 out who that person is soon enough anyway
12 so, but I'll deny it without rejudice at
13 this time.

14 All right. And that was number
15 three. Let's go to you want to go to
16 five? Oh, anything further with the
17 re-deposing of Tate Yeatman?

18 MS. PARKER: Yes, Judge.
19 THE COURT. Okay.
20 Ms. Parker, good morning.
21 MS. PARKER: Good morning.
22 THE COURT: Let's take that motion.
23 MS. PARKER: Judge, the Defense is
24 asking to re-depose Mr. Yeatman for the
25 limited purpose of discussing the lab

1 procedures as it relates to the testing for
2 hydrocodone, which is completely different
3 than testing for alcohol. I reviewed the
4 first -- the original deposition of
5 Mr. Yeatman and other than the type of
6 instrument used to test the hydrocodone,
7 there was nothing talked about the testing.
8 And it's my understanding, from speaking
9 with Mr. Goodman's previous lawyers, that
10 they were under the assumption, until the
11 day that Tate Yeatman testified in court,
12 that the hydrocodone results weren't coming
13 in.

14 If your Honor remembers,
15 Ms. Roberts brought up at the beginning,
16 right prior to Mr. Yeatman testifying,
17 brought up the issues that she had just

18 come cross the medical records, and that
19 now Tate could give in, I guess,
20 quantitation to how the hydrocodone could
21 have affected Mr. Goodman. Prior to that,
22 he could not render an opinion. And it's
23 my understanding because of that, that
24 that's why the Defense- really didn't pursue
25 the testing and the lab procedures utilized

1 to test that hydrocodone, and we are
2 requesting that we be able to depose him on
3 that limited issue, testing procedures and
4 how you go about determining levels and
5 things like that in the blood.

6 THE COURT: Mr. Johnson?

7 MR. JOHNSON: Judge, first I want to
8 apologize to the Court. I wasn't -- this
9 was a recent motion that was filed, and it
10 was put on for today, but I have some case
11 law, and I'm just gonna briefly respond.
12 And I put you at a disadvantage by giving
13 you case law while it's being argued.

14 THE COURT: I'll take it.

15 MR. JOHNSON: But it's pretty simple
16 and you may already be aware of these
17 cases. May I approach?

18 THE COURT: Sure.

19 MR. JOHNSON: I'll try not to fall on
20 my face when I come up here.

21 THE COURT: All right. And the
22 Defense has these?

23 MR. JOHNSON: Just now.

24 THE COURT: Okay.

25 MR. JOHNSON: That's why I -- I did

1 this research yesterday afternoon when --
2 after realizing that this would be argued,
3 but we only got the motion on Monday,
4 before New Year's.

5 THE COURT: All right, So I take it
6 you're objecting to allowing the Defense to
7 re-depose --

8 MR. JOHNSON: Yes.

9 THE COURT: -- Tateman, okay --
10 Yeatman, excuse me.

11 MS. PARKER: And, Judge, I did --
12 before I filed the motion, I did request
13 permission from the State.

14 THE COURT: All right, go ahead,
15 Mr. Johnson.

16 MR. JOHNSON: I take no issue with
17 the late filing, that's not the point

18 today.

19 Judge, as you all know, rule 3.220,

20 and I believe it's H, subsection H,

21 re-deposition is not allowed, of course

22 it's totally in the discretion of the

23 Court, but it -- it -- in many

24 jurisdictions, there are no depositions, in

25 federal cases there are no depositions.

1 It's generally not allowed unless there's
2 some good faith shown to a good cause,
3 okay. And I gave the Court a couple of
4 cases which all deal with this very issue.
5 Number one, J S versus State, it's 45
6 So. 3d , 910. It's a Fourth DCA case, right
7 out of our own backyard. And it talks
8 about J S's counsel having the full
9 opportunity to depose the victim on a
10 closely related set of facts. Okay? And
11 while it's within the Judge's sound
12 discretion in limiting discovery -- and
13 they mention and -- at Defense counsel's
14 credit at the end of the opinion, to the
15 Defense counsel's credit, they admitted
16 that these were areas that I should have
17 covered and I didn't, given the particular

18 facts of this case.

19 The Defendant's oversight, and this
20 is the important part, Defendant counsel
21 oversight is not the sort of good cause
22 shown to subject -- in this case, it was
23 the victim -- to a second deposition. So
24 that's issue number one that we're dealing
25 with here.

1 And we move forward to the Holland
2 case, and although the Holland case is
3 extensive, there are a number of issues,
4 and Holland is 773 So. 2d 1065. But if you
5 look to -- to headnote 7, okay, the Defense
6 attorney was not the same attorney during
7 the retrial. Holland argued -- the
8 Defendant argued that the retrial attorney
9 should not be bound by the strategy used by
10 the first attorney and that the retrial
11 attorney needed to ask different questions,
12 which is essentially what we have here, of
13 some of the witnesses. And I don't know
14 whether this is the only witness that
15 Defense is going to request a
16 re-deposition. Obviously, we've agreed on
17 some limited re-depositions, but I think

18 not. I think that we'll probably get more.

19 But the rule again says, no person
20 shall be deposed more than once except by
21 consent of the parties. The fact -- and
22 here I go to page -- for the record, page
23 1072. The fact that there was a retrial in
24 this case with a different attorney, does
25 not by itself amount to good cause,

1 therefore, we find no merit to this claim.

2 Then we move along to the third case
3 that was provided, that would be Woodson.
4 And in Woodson, the issue was the
5 re-deposition of -- of a State expert for
6 -- concerning protocol and procedure. And
7 this would be a DNA expert. It's very
8 similar. I mean, you have a toxicology
9 expert, you have a DNA expert. And
10 specifically -- and I'll read into the
11 record Woodson versus State, 739 So. 2d
12 1210, it's a Third DCA case, 1999.

13 So we have the request to re-depose
14 on the basis of process and procedure, and
15 the Court went on to talk about the fact
16 that there are documents detailing the
17 procedures and protocol, in this case,

18 obtaining DNA evidence prior to trial, as
19 well as the fact that Woodson's counsel was
20 able to utilize that information, which is
21 very similar to here. We have procedures
22 and protocols involved in toxicology with
23 regard to P.B.S.O. They can cross-examine
24 on the basis of that.

25 What they're actually saying is, the

1 first counsel who could have -- and this
2 issue was known: Whether or not we knew
3 whether the hydrocodone was coming in at
4 trial, it was known at the time of
5 deposition that it was an issue, and the
6 Defense counsel chose not to depose on the
7 procedures and protocols with regard to
8 hydrocodone and only concentrated on the
9 alcohol. That's their choice. It's not
10 that this came up after the deposition, it
11 was known and -- and, you know, I think
12 Mr. Black, by his reputation, and Mark
13 Shapiro, are no slackers. They chose not
14 to do it. It's not a 3 .850, it's not a --
15 they chose not to do it. That is not good
16 cause, Judge, and the State would argue
17 that there is no -- that the

18 information is in the Defendant's hands.
19 They can cross- examine on the basis of
20 procedures and protocols, and that the
21 Court should not grant the re-deposition on
22 this case based on the cases provided.
23 THE COURT: All right , thank you
very
24 much. Let me go over -- back to Ms. Parker
25 for any rebuttal.

1 MS. PARKER: Judge, just briefly to
2 distinguish the Woodson case. That was a
3 request for a third deposition of the same
4 expert by the same attorney. Clearly that
5 wouldn't be allowed, but here, again,
6 Judge, Mr. Johnson has admitted to the
7 Court that Defense counsel, prior Defense
8 counsel, did not go into this area, and
9 we're requesting the Court to allow
10 Mr. Goodman his due-process rights to be
11 able to explore those areas now that the
12 ruling was made that the hydrocodone was
13 admissible.

14 THE COURT: All right.

15 MR. JOHNSON: Judge, if I may add
16 just one thing. It wasn't that the
17 hydrocodone was not discussed, it's just

18 that they chose not to go into the
19 procedures and protocols, but it was
20 extensively discussed in that deposition.

21 THE COURT: The Defendant's motion
 to

22 re-depose Tate Yeatman is denied.

23 All right. I think that takes us
24 then to the Motion to Suppress blood
25 evidence, correct?

1 MS. PARKER: Yes, Judge.

2 THE COURT: All right. It seems to
3 me that the burden is on the State to
4 establish entitlement, yes?

5 MS. PARKER: Yes, Judge.

6 MS. COLLINS: Yes, your Honor.

7 MS. PARKER: I would like the Court
8 to take judicial notice there is no search
9 warrant in the record.

10 THE COURT: I'll take notice that
11 there's no warrant in the record, and so
12 the burden shifts over to the State.

13 MS. COLLINS: Your Honor, did you
14 receive the State's memorandum of law that
15 I filed?

16 THE COURT: Yes.

17 MS. COLLINS: Your Honor, and I

18 apologize. I was awaiting a signed copy of
19 the Finnigan case out of Martin County that
20 I cited within my response. I finally got
21 it late yesterday afternoon, if I can
22 approach and supply that to the Court as
23 well?

24 THE COURT: Oh, thank you, yes,
25 please, I'd be happy to take that. Thank

1 you.

2 MS. COLLINS: Your Honor, first we'd
3 ask the Court to take judicial notice of
4 Florida Statute 316.1933 that permits the
5 taking of alcohol pursuant -- excuse me
6 blood alcohol or controlled substance
7 pursuant to the Florida Implied Consent
8 law.

9 THE COURT: Okay.

10 MS. COLLINS: Your Honor, at this
11 time, State would call Investigator Troy
12 Snelgrove.

13 THE COURT: Investigator Snelgrove,
14 come on up, please.

15 THEREUPON:

16 TROY SNELGROVE,
17 after being called as a witness by the State and

18 after being first duly sworn by the Clerk of the
19 Court, was examined and testified as follows:

20 THE WITNESS: Yes.

21 THE CLERK: Thank you.

22 THE COURT: Come on up to the
witness

23 stand, please.

24 Good morning.

25 THE WITNESS: Good morning.

1 THE COURT: And please tell us your
2 name, where you work and your rank.

3 THE WITNESS: Investigator Troy
4 Snelgrove, I work for the Palm Beach County
5 Sheriff's Office.

6 THE COURT: Thank you so very much.
7 Ms. Collins.

8 MS. COLLINS: Yes, your Honor.

9 DIRECT EXAMINATION

10 BY MS. COLLINS:

11 Q. Now; Investigator Snelgrove, how
 long have

12 you worked for the Palm Beach County
 Sheriff's

13 Office?

14 A. Almost 19 years.

15 Q. And during that time, have you
 been trained

16 as a traffic homicide investigator?

17 A. Yes, I have.

18 Q. Briefly, can you cover your
training and

19 experience as a traffic homicide investigator?

20 A. I have taken -- I mean, I don't
have my

21 folder here with me with all my courses in it ,
but

22 I have taken basic traffic homicide

23 investigations, advanced accident
investigations,

24 traffic crash reconstruction, bicycle

25 investigation, commercial motor vehicle

1 investigation, motorcycle investigation, I've
2 taken numerous, numerous hours of traffic-
classes.

3 Q. Hundreds.

4 A. Yes.

5 Q. How long have you been, up to
today, with

6 the traffic homicide unit of the Palm Beach
County

7 Sheriff's Office?

8 A. Since 2002.

9 Q. So almost 12 years now?

10 A. Yes.

11 Q. Back on February 11th and
February 12,

12 2010, were you in the traffic homicide unit?

13 A. Yes, I was.

14 MS. COLLINS: Now, your Honor, since
15 hearsay is admissible in this hearing, I'd

16 like to go through some of the events.

17 And, of course, the Court was present

18 during the trial , so this -- a lot of this

19 is not anything the Court doesn't already

20 know.

21 BY MS. COLLINS:

22 Q. Mr. Snelgrove, you're aware of a
crash that

23 occurred in the hours or minutes just before

24 1:00 a.m. on February 11th of 2010?

25 A. Yes.

1 Q. And you understand it occurs just
before

2 1:00 a.m.

3 A. Yes.

4 Q. And that the sheriff's office was
notified

5 by, first , a 911 call from a young lady and
then

6 by two other 911 calls from two young. men?

7 A. Yes.

8 MS. PARKER: Your Honor, I'm
gonna

9 object to the leading nature of this

10 testimony.

11 THE COURT: Overruled. I
think

12 preliminarily I'll allow the State to lead

13 a little bit to get to the heart of the

14 matter, but if she seems to be
suggesting

15 answers on --

16 MS. COLLINS: I'm sorry, sir?

17 THE COURT: I said, if you seem
to be

18 suggesting answers to questions on

19 something more media, I'll jump in and
stop

20 that.

21 MS. COLLINS: Yes, your Honor,
thank

22 you.

23 BY MS. COLLINS:

24 Q. When officers arrived on scene, to
your

25 understanding, was there anyone who was
involved

1 in the crash still on scene?

2 A. No.

3 Q. Would you agree with me that
almost an hour

4 went by before any law enforcement officers

5 were made contact with someone who had
been

6 involved in the crash?

7 MS. PARKER: Objection, your
Honor,

8 leading.

9 THE COURT: Yeah, sustained.

10 MS. COLLINS: Are you aware of
when

11 someone was notified or when dispatch
was

12 first notified that someone who was

13 involved in the crash was calling 911?

14 THE WITNESS: Yes.

15 BY MS. COLLINS:

16 Q. Approximately how much time
had passed?

17 A. I believe that phone call came in,
look

18 through my notes here, at 1:55 a.m.

19 Q. And the person who was
determined to

20 have made that phone call at 1:55 a.m., almost
an

21 hour after the crash?

22 A. That was John Goodman.

23 Q. Now, when John Goodman was
brought to the

24 scene, at that point, had anyone been able to

25 determine where the driver of the other car
was?

1 A. Not at that time, no.

2 Q. At the time that Mr. Goodman
was

3 transported to the hospital, had there been
any

4 determination of where the driver of the
Hyundai

5 that was in the canal was found?

6 A. Not that I'm aware of, no.

7 Q. Now, based upon your training as
a traffic

8 homicide investigator, as well as your
knowledge

9 of DUI crashes, at the time that Mr. Goodman

10 arrived on the crash at -- the crash scene at

11 1:55 a.m., was there any evidence that there
was

12 anything other than a misdemeanor DUI
crash that

13 would have occurred at that point?

14 A. Not until the car was pulled out
of the

15 water.

16 Q. So at 1:55, when Mr. Goodman
called 911,

17 and then the subsequent moments when he
was on

18 scene, all that the sheriff's office had was a

19 misdemeanor DUI?

20 A. At that point, yes.

21 Q. Now, based upon your knowledge
of the laws

22 of the state of Florida and your training and

23 experience, was there any legal way that blood

24 could have been drawn from Mr. Goodman at
the

25 scene at that point, knowing he just had a

1 misdemeanor DUI?

2 A. Only a consensual one.

3 Q. So when Mr. Goodman was
transported to the

4 scene, based upon what you determined in
your

5 investigations, at around 2:30, was the
Hyundai

6 pulled out of the canal?

7 A. Based on what I was told, yes.

8 Q. And when the Hyundai was
pulled out of the

9 canal and Scott Wilson was found in the
driver's

10 seat, was that the first indication that anyone

11 from law enforcement was aware that this was
now a

12 traffic homicide investigation?

13 A. Yes.

14 Q. Pursuant to that knowledge,

finding Scott

15 Wilson in the car, were you called by your
16 supervisor to come to the scene?

17 A. Yes, I was notified to respond to
 the
18 scene, it was a traffic fatality.

19 Q. Based upon your training and
 what you
20 learned, was there anyone else on scene who
 was a
21 traffic homicide investigator when that car
 was
22 pulled from the water just after 2:30 in the
23 morning?

24 A. Not at that time, no.

25 Q. What time did you receive the
 call to

1 arrive?

2 A. I believe it was at 3:10 in the
morning.

3 Q. And how long did it take you to
4 get on
scene?

5 A. About eight minutes.

6 Q. So at 3:18, you were on scene?

7 A. Yes.

8 Q. Were you able to talk to the other
law
9 enforcement officers that were on the scene?

10 A. Yes.

11 Q. Were you able to look at the
Bentley and

12 look at the Hyundai?

13 A. Yes.

14 Q. Were you able to look in the
general area

15 of the scene and put together a preliminary
16 causation of how the crash occurred?

17 A. Yes.

18 Q. And was that based upon your
training and
19 experience?

20 A. Yes.

21 Q. Based upon that, do you believe
that you
22 had a general idea of how the crash occurred,
who
23 was at fault, based upon what you were able
to
24 view during that time frame on scene in the
time
25 after 3:18 a.m.?

1 A. Yes.

2 Q. Based upon that, did you then go
to the

3 hospital where Mr. Goodman had been
transported?

4 A. I did.

5 Q. Approximately what time did you
arrive at

6 the hospital?

7 A. I arrived at the hospital -- well, I
left

8 the scene at 3:33 and the hospital was pretty

9 close to the scene so. I don't have the exact

10 time when I arrived at the hospital.

11 Q. When you arrived at the hospital,
was there

12 officers that had been sitting with Mr.
Goodman

13 while he was at the hospital?

14 A. There was a deputy there, yes.

15 Q. And were they there to make sure
 that he
16 did not get any intravenous medication that
 would
17 affect his blood alcohol level?

18 A. They were there just to -- to
 secure him
19 there, so ...

20 Q. Make sure he didn't go anywhere.

21 A. Right.

22 Q. Now when you arrived on scene,
 was
23 Mr. Goodman accessible?

24 A. He was in radiology at the time I
 arrived.

25 Q. So when you arrived, you were
 able to make

1 contact with Mr. Goodman right away?

2 A. Not right away, no.

3 Q. How long did you have to wait for
him to

4 come out of radiology?

5 A. It was a short period of time, it
wasn't

6 very long.

7 Q. Once Mr. Goodman got out of
radiology and

8 you made contact with him, did you make

9 observations of him?

10 A. I did.

11 Q. And of those observations, what
drew your

12 attention?

13 A. I noticed a strong odor of an
alcoholic

14 beverage coming from his breath. I noticed
that

15 his eyes were bloodshot and glassy. His
movements

16 were slow and his speech was slurred.

17 Q. Did you also notice anything
about his

18 footwear?

19 A. Yes, he was wearing square-toed
cowboy

20 boots.

21 Q. And did that match anything
from what you

22 would have observed on the scene of the crash?

23 A. There were footprints leading
away from the

24 vehicle towards the area of where he was
recalled

25 from and was retrieved from, and they
matched the

1 boot prints that are -- for the boots that he was
2 wearing.

3 Q. Based upon that, did you believe
you had

4 probable cause to believe that the Defendant,
John

5 Goodman, committed the crime of DUI
manslaughter

6 and failing to render aid at that point?

7 A. Yes.

8 Q. And did you ask Mr. Goodman to
provide a

9 consensual blood sample?

10. A. I did.

11. Q. And what did he say?

12. A. He said he did not want to.

13. Q. Based upon that , what did you
do?

14. A. At that time, I explained to him
that I had

15 probable cause to conduct a law enforcement
16 blood

16 draw and asked the nurse to do that.

17 Q. And did you do that pursuant to
18 Florida

18 statute 3161933?

19 A. Yes.

20 Q. And is that something that you've
21 been

21 trained over your 20 years as a deputy, that
22 given

22 the facts and circumstances that you had
23 before

23 you, that that was the appropriate and lawful

24 steps to take?

25 A. Yes.

1 Q. Pursuant to that , did you ask a
nurse

2 practitioner -- excuse me -- a nurse that was
on

3 scene and permitted by statute to draw blood
to

4 draw two vials of blood?

5 A. I did.

6 Q. Did you provide her an approved
test kit?

7 A. I did.

8 Q. And was the blood drawn
pursuant to your

9 training?

10 A. Yes.

11 Q. Now, during your -- your course
of your

12 years with the sheriff's office, have you ever

13 gotten a search warrant for blood?

14 A. No.

15 Q. Why not? Well , let me back up
for a second

16 and re-ask a different question.

17 Have you ever gotten any search
warrants?

18 A. Yes.

19 Q. Have you ever gotten search
warrants for

20 vehicles?

21 A. Yes.

22 Q. Have you ever gotten search
warrants for

23 data recorders?

24 A. Yes.

25 Q. Have you gotten search warrants
for medical

1 records?

2 A. Yes.

3 Q. Have you ever gotten search
warrants in the

4 middle of the night?

5 A. Yes.

6 Q. How many times would you say
you've gotten

7 search warrants over the course of your 20

8 years with the Sheriff 's Of fice?

9 A. Probably over 20 times.

10 Q. And how many times have you
done it in the

11 middle of the night?

12 A. I would say, probably five or six.

13 Q. Now, let's talk about the
procedures that

14 have to occur when you're seeking a search

15 warrant.

16 Do you have to first do the investigation
17 to determine you have sufficient probable
cause to
18 get a search warrant?
19 A. Yes.
20 Q. And I imagine that would vary
from case to
21 case, but in this case, how long did it take you,
22 from the time that you arrived on scene at
3:18,
23 to develop probable cause? The blood was
drawn
24 here around 3 :58, 3:59. So did it take that
25 entire period of time?

1 A. Well, there was some time in
there waiting
2 for him to come out of the radiology and then
3 talking to the nurses and getting the nurses
free
4 to take the blood draw.

5 Q. But it took some time to develop
a probable
6 cause.

7 A. Yes.

8 Q. Once you developed a probable
cause and you
9 got the refusal from someone, would you be
10 required to write out a search warrant?

11 A. No.

12 Q. No, no, no. If you were gonna
write out a
13 search warrant, would you be required to
write it
14 out?

15 A. Yes.

16 Q. How long, on average, does it
take you to

17 write a search warrant?

18 A. It could probably take up to 30,
45

19 minutes, by the time I get it all written out.

20 Q. What kind of things are required
to put

21 into a search warrant that it would take you
that

22 long?

23 A. The facts of the case, the probable
cause

24 of why you need the evidence that you're
trying to

25 obtain. My training experience and what
allows me

1 to have my opinion, and you have to do the
search

2 warrant and the application for the search

3 warrant.

4 Q. So at the time that you arrived on
scene

5 and John Goodman indicated to you that he
was not

6 gonna consent to a blood draw, had you even

7 written a probable cause affidavit that you've

8 just, you know, cut and paste into an affidavit

9 for a search warrant?

10 A. No.

11 Q. So you would have to sit down
and write it

12 all from scratch?

13 A . Yes.

14 Q. And as you indicated back on
February 11,

15 2010, you had never written a search warrant
for

16 blood?

17 A. No.

18 Q. So you would have to really take
care to do

19 it the right way if you'd never done it?

20 A. That's correct.

21 Q Would you have consulted with a
prosecutor

22 to make sure that you were writing a legally

23 sufficient search warrant?

24 A. Yes.

25 Q. Usually does it take time to be
able to

1 call a prosecutor in the middle of the. night
and

2 wake them up to be able to get them to be
coherent

3 so you could talk to them?

4 A. Yes.

5 Q. What kind of a time delay do you
usually

6 get in terms of getting someone to actually
answer

7 the phone at 3:30 in the morning?

8 A. Sometimes they answer right
away, sometimes

9 they don't.

10 Q. So once you get the search
warrant written,

11 is there a time delay while the prosecutor
would

12 review the search warrant for legal
sufficiency?

13 A. Yes.

14 Q. And how long does that usually
take?

15 A. As long as it takes them to review
it and

16 make sure that everything's right.

17 Q. And -- 'cause you want it to be
correct

18 A. Yes.

19 Q. Once the prosecutor has reviewed
it for

20 legal sufficiency, do you then have to make
sure

21 the prosecutor contacts the duty Judge?

22 A. Yes.

23 Q. And how long does that usually
take?

24 A. You would have to contact the
Judge, wake

25 them up if they're not up and then travel to
their

1 residence to have them sign it and then travel
2 back to the scene.

3 Q. And that would depend on how
large --
4 obviously, Palm Beach County is a very large
5 county, so depending on whether it is a Judge
who
6 lives in Boca Raton or a Judge who lives out in
7 Tequesta or a Judge who lives in West Palm
Beach,
8 it could vary in terms of how long it would
take
9 to get to that Judge?

10 A. Yes.

11 MS. COLLINS: Your Honor, I
would
12 like the Court to take judicial notice,
13 Palm Beach County is a very large
county
14 and pursuant to the U.S. census bureau,

the
15 land area and square miles in 2010 for
Palm
16 Beach County was 1,969 point 76
square
17 miles. I have a copy of the U. S. census
18 bureau sheet to show counsel , and I'd
ask
19 the Court to take Judicial Notice of that
20 fact.
21 THE COURT: Any objection?
22 MS. PARKER: No, your Honor.
23 THE COURT: All right , I'll take
24 Judicial Notice of that. Are we still
the
25 largest county east of the Mississippi

1 River?

2 MS. COLLINS: We are, as far as
3 I
4 know, the largest county east of the
5 Mississippi River, sir, but I didn't have
6 that written down, so.

7 THE COURT: Okay.

8 BY MS. COLLINS:

9 Q. Now, once you have woken the
10 Judge up,
11 determined where the Judge is, driven to their
12 house, does the Judge take the time, carefully
13 read the motion to make sure there's probable
14 cause there before the Judge could sign it?

15 A. Yes.

16 Q. And you then would have to drive
17 back to
18 the scene?

16 A. Yes.

17 Q. Based upon your knowledge of
the Florida

18 law and your training as a traffic homicide

19 investigator, back in 2010, couldn't you just
send

20 it by e-mail?

21 A. No.

22 Q. Does Florida law, back in 2010,
require an

23 original search warrant to be done?

24 A. I believe so, yes.

25 Q. So you couldn't fax it , could you?

1 A. No.

2 Q. And then once the Judge has
signed it and

3 you've driven back to the hospital , then and
only

4 then can the search warrant be executed.

5 A. Yes.

6 Q. Approximately how much time
has it taken

7 you to get a search warrant in the middle of
the

8 night, from the moment that you develop the

9 probable cause, until you actually are back on

10 scene to get it executed?

11 A. Probably two, two-and-a-half
hours.

12 Q. Now, at the time that you had
the blood

13 drawn, about 3:58 and 4:00 a.m., it had been

14 already three hours since the crash; isn't that

15 correct?

16 A. Yes.

17 Q. Were you concerned that if you
had to

18 get -- or knowing what you know now, would
you be

19 concerned of having to wait another two-
and-a-half

20 or possibly three hours before you got a search

21 warrant to take the blood?

22 A. Yes.

23 Q. What would happen during that
time? You

24 would now be almost five-and-a-half or six
hours

25 after the crash. Would that cause you concern
in

1 terms of evidence being released?

2 A. Yes.

3 MS. COLLINS: Your Honor, I
have no

4 further questions. I'll tender this

5 witness to cross-examination.

6 THE COURT: Ms. Parker.

7 MS. PARKER: Thank you, your
Honor.

8 CROSS EXAMINATION

9 BY MS. PARKER:

10 Q. Good morning, Investigator
Snelgrove.

11 A. Good morning.

12 Q. Do you have a copy of your police
report in

13 front of you?

14 A. I do.

15 Q. Okay. Do you happen to have a

copy of the
16 CAD report also?
17 A. I do not.
18 MS. PARKER: Your Honor, may I
19 approach?
20 THE COURT: Yes. Show Ms.
Collins
21 what you're handing up to the witness.
22 BY MS. PARKER:
23 Q. Now, Investigator Snelgrove,
according to
24 your report in front of you, you were notified to
25 respond to the traffic fatality, I believe you

1 said at 3:10 a.m.?

2 A. Yes.

3 Q. You were notified by Sergeant
 John

4 Churchill?

5 A. Yes.

6 Q. He was your supervisor at the
 time?

7 A. He was, yes.

8 Q. And he called you on your cell
 phone?

9 A. I assume so, yes.

10 Q. And you departed your house
 approximately

11 five minutes later, about 3 :15; does that
 sound

12 right?

13 A. It could be, yeah.

14 Q. If you were to look at the CAD
 report in

15 front of you, could you identify the exact time
of

16 your departure? I'll refer you to page 8.

17 You're VHI 12, correct, employee

18 number -- I.D. number 5475?

19 A. Yes.

20 Q. Do you see at three --
approximately 3 : 15

21 and 51 on there that it says, departed?

22 A. That's when I would have --
that's when I

23 would have gotten on the radio and let the

24 dispatch know I was on my way.

25 Q. Okay.

1 A. It might not have been exactly
when I left

2 my driveway.

3 Q. Okay. Right around that time.

4 A. Yeah.

5 Q. And then you arrived at the
intersection of

6 120th and Lake Worth Road at 3:18 and 53
seconds,

7 according to these dispatch records, correct?

8 A. Yes.

9 Q. Now, when you arrived, there
were other

10 officers on the scene, correct?

11 A. Yes.

12 Q. And no deputy had gone into the
canal prior

13 to your arrival , had they?

14 A. Not that I'm aware of , no.

15 Q. And fire rescue actually did not
use dive

16 equipment to go into that canal prior to your
17 arrival, did they?

18 A. I believe they did not.

19 Q. Now, let's talk a little bit about
the time

20 of about the timeline based upon your report.

21 At 1:06 a.m., according to your report, a 911
call

22 is made by Nicole Ocoro; is that correct? And I

23 think it's on page 8, your investigation begins.

24 Do you see that anywhere in there that

25 that's the time she called 911?

1 A. I believe my report says 1:01.

2 Q. 1:01 was the time she called or
the time

3 that she got on scene?

4 A. The time that she called.

5 Q. Okay. According to your report,
6 Deputy Reiger says that he responded at 1:12
a.m.,

7 that that' s when he arrived on scene; is that
8 correct?

9 A. That's what he said, yes.

10 Q. Okay. And you're aware that he
arrived

11 with Deputy Safford and Deputy Saxon also?

12 A. Yes, whoever was the original
responding

13 officers.

14 Q. And I believe you told Ms. Collins
that at

15 1:55 a.m. , dispatch received a call from John
16 Goodman telling the dispatcher that he had
been in
17 an accident and what his exact location at that
18 time was, correct?
19 A. Yes.
20 Q. And then Deputy Safford and
Saxon drive to
21 pick Mr. Goodman up; do you recall that?
22 A. I believe Safford did, actually
picked him
23 up.
24 Q. And Mr. Goodman's brought back
to the
25 scene, and that" when Deputy Reiger then
comes

1 into contact with him, when he's in the fire
2 rescue rig being treated for his injuries,
3 correct?

4 A. Correct.

5 Q. And Deputy Reiger was the DUI
unit assigned

6 to the Wellington district at that time the
night

7 of the accident, correct?

8 A. I believe that he's the traffic car
out

9 there.

10 Q. And at 2:26 .m., Mr. Goodman is
11 transported to Wellington Regional Hospital,
12 correct? And if you need to refer to the CAD --

13 A. I don' t know the exact -- I don't
know the

14 exact time.

15 Q. If you go on page 7, I refer you to

the CAD

16 report. Do you see in there at 2:26:20 a.m.,
with

17 EMS 51 to the ER?

18 A. Yes.

19 Q. Okay. And that's one of the
deputies that

20 was going with Mr. Goodman to the ER to be

21 transported, correct?

22 A. Yes.

23 Q. Now, looking at the -- the CAD
report a

24 little bit further down at 2:31 -- and just before

25 I get any further into the CAD report, can you

1 describe for the Court what -- explain exactly
2 what we're looking at , what we're going
through
3 with the CAD report.

4 A. A CAD report is a dispatch log of
what
5 everybody did.

6 Q. Like the times that they get on
the radio,
7 where they are, things like that?

8 A. Correct.

9 Q. Okay. Is this something that you
regularly
10 rely upon for your arrival times, departure
times
11 and things like that in your -- in your
12 investigations?

13 A. Not all the time, but some of the
time,
14 yes.

15 Q. Now, at 2:31, according to this
CAD report,

16 that's when it was confirmed there was a
signal

17 seven. Do you see that?

18 A. Yes.

19 Q. Okay. Can you explain to the
Court what a

20 signal seven is?

21 A. That's a death.

22 Q. Okay. A traffic fatality?

23 A. Well , it's just a death.

2 4 Q. Just a death? Okay. So that was
at 2:31.

25 At 2:32, according to this dispatch report , two

1 DUI officers are dispatched to the scene,
correct,

2 Deputy Noel and Deputy Ruben Cruz?

3 A. Yes.

4 Q. And would you consider both of
 them to be

5 seasoned DUI officers?

6 A. Yes.

7 Q. And, in fact, Deputy -- both of
 them are

8 trained in traffic homicide investigations,
aren't

9 they?

10 A. Yes.

11 Q. And Deputy Noel , he's, in fact,
 what is

12 known as a drug recognition expert, correct?

13 A. He is.

14 Q. And, basically, that's someone
 who has

15 specialized training to detect if a person's
under

16 the influence of drugs or alcohol?

17 A. Yes.

18 Q. Beyond that of a regular DUI
officer?

19 A. Yes.

20 Q. And he and -- both he and Deputy
Cruz

21 regularly assist in DUI fatality investigations,

22 don't they?

23 A. Yes.

24 Q. Now, neither Deputy Cruz,
Deputy Noel nor

25 Deputy Reiger were sent to the hospital to
make

1 contact with Mr. Goodman, correct?

2 A. I believe they did not go.

3 Q. Do you know who the deputies
 were that were

4 with Mr. Goodman at the hospital?

5 A. I do not.

6 Q. Did you speak to them when you
 arrived at

7 the hospital to find out what their
 observations

8 were of Mr. Goodman?

9 A. I don't believe that I did.

10 Q. Now, you weren't contacted for 40
 minutes

11 until -- well , 40 minutes after this was

12 classified as a fatality, correct?

13 A. Correct.

14 Q. Now let's talk about when you
 arrived on

15 the scene. The copy of your report that you
have

16 in front of you, I'll start with page 8.

17 When you arrived, I assume you got out of
18 your vehicle?

19 A. Yes.

20 Q. You walked up to Deputy Noel.

21 A. Yes.

22 Q. Where was he standing?

23 A. I don't remember.

24 Q. Do you recall where you parked
your car,

25 your vehicle?

1 A. I parked my truck on the west
side --

2 west -- southwest side of the intersection.

3 Q. Okay. What was the first thing
that Deputy

4 Noel told you when you came into contact with
him?

5 A. He told me that he got on the
scene, he

6 found out that there was a driver who left the

7 scene of the collision. He called 911. He said

8 he was calling -- he was driving the Bentley
and

9 that someone pulled out in front of him.
He said

10 that he -- the driver was transported to

11 Wellington Regional and that -- that he
was

12 located and that Mitch Reiger was the first
person

13 on scene.

14 Q. Did you ask Deputy Noel any
follow-up

15 questions, like, how he learned the
information

16 that he had just told you?

17 A. I don't recall.

18 Q. Did you ask him if he had ever
made contact

19 with the driver of the Bentley?

20 A. I don't remember if I asked him that
or

21 not.

22 Q. You stated he told you that there
was a

23 witness that spoke to Mr. Goodman. Did he
tell

24 you that particular witness's name?

25 A. I don't remember if he told me
her name,

1 but it was Lisa Pembleton from where he was
2 located at.

3 Q. Okay. So at some point, you
 became -- you
4 learned her name.

5 A. Yes.

6 Q. Did you ask or did he tell you
 how he knew
7 what had transpired between Mr. Goodman
 and Lisa
8 Pembleton at that location?

9 A. Not that I'm aware of , no, it was
 a brief
10 conversation.

11 Q. Did Deputy Noel tell you
 anything about any
12 signs of impairment that he may have
 observed on
13 Mr. Goodman?

14 A. No.

15 Q. Next you went over to speak to
Deputy
16 Reiger. Where was he in relation to where you
17 were speaking to Deputy Noel?
18 A. I believe he was standing right
next to the
19 passenger side of the Bentley.
20 Q. And how far away from Deputy
Noel was that;
21 do you recall?
22 A. I don't recall where Deputy Noel
was when I
23 talked to him.
24 Q. Now, let's go through your report
and go
25 over everything that Deputy Reiger told you
that

1 night.

2 Was fire rescue -- first of all, was fire
3 rescue still on scene when you arrived?

4 A. I don't believe so.

5 Q. Now, he told you -- Deputy Reiger
told you

6 that he called for --

7 MS. COLLINS: Your Honor, I'm
gonna

8 object. Counsel's motion doesn't allege

9 that this officer didn't have probable

10 cause, and, as such, this is all

11 irrelevant.

12 THE COURT: Overruled.

13 MS. PARKER: Now, Deputy Reiger,

14 according to your report, told you that

15 the -- that he called for a tow truck

16 because fire rescue had told him that the

17 vehicle was not occupied at 1:38 a.m.; do
18 you recall that?

19 THE WITNESS: Yes.

20 BY MS. PARKER:

21 Q. Okay. And 1:38 a.m. is prior to
22 Mr. Goodman's phone call, isn't it?

23 A. Yes.

24 Q. So when the tow truck was called by
25 Deputy Reiger, according to what he told you
 in

1 your report, this was not a fatality
2 investigation.

3 A. No.

4 Q. And when Deputy Reiger spoke to
 Mr. Goodman
5 prior to him being transported to the hospital,
6 this was not a fatality investigation, correct?

7 A. No.

8 Q. And, in fact, as you said to Ms.
 Collins,
9 this was a misdemeanor DUI investigation,
 correct?

10 A. It would have been, yes.

11 Q. Now, Deputy Reiger knew that
 Mr. Goodman
12 was the driver based on his statement,
 correct?

13 A. Yes.

14 Q. He said that he saw and observed
 an odor

15 of alcohol about Mr. Goodman's breath,
correct?

16 A. Yes.

17 Q. That he said Deputy Reiger said
that he

18 had slurred speech.

19 A. Yes.

20 Q. Yet Deputy Reiger did not
conduct any DUI

21 investigation, did he?

22 A. No.

23 Q. Now, you've conducted many DUI

24 investigations during the course of your
career,

25 correct?

1 A. Yes.

2 Q. And, in fact, at some point prior
to going

3 into the traffic homicide unit, you were in the
4 DUI unit, weren't you?

5 A. Yes.

6 Q. I mean, back in, I don't know,
'98, right

7 around the --

8 A. Around that, yes.

9 Q. around the late '90s? Okay.
So if a

10 driver -- based on your memory of the law
from

11 misdemeanor DUI's, if a driver is involved in
an

12 accident, they're being treated at the hospital

13 and an officer has reasonable suspicion that
they

14 are under the influence of alcohol , the officer,

15 under Florida's implied consent law, can ask
16 that
17 person to provide a sample of their blood for
18 testing, correct?
19 A. They can, yes.
20 Q. Now, let me have you look at the
21 CAD report
22 again, at 2:11, if you can look at that. I think
23 it's page 7. Can you read what that event
24 comment 22 is at 2:11?
25 A. It says -- right at 2:11?
26 Q. Yes.
27 A. It says, F D cannot determine if
28 anyone is

1 in the vehicle.

2 Q. Okay. So according to what's in
3 this
4 computerated dispatch report, that the fire
5 department, at 2:11, could not determine if
6 anyone's in the vehicle.

7 A. That's what it says.

8 Q. So that's actually different than
9 what
10 Deputy Reiger told you that's in your report.
11 He
12 said that at 1:38, he was told by fire
13 department,
14 and that's why he called the tow truck; do you
15 recall that?

16 A. That's what he told me.

17 Q. Now, let's get back to everything
18 else that
19 Deputy Reiger told you that first night you
20 spoke

15 to him.

16 You got out of your car at 3:18. You spoke

17 to both know Noel and Reiger and obtained all
of

18 that's information from them in a period of
seven

19 minutes; is that correct?

20 A. Yes.

21 Q. Okay. Now, Deputy Reiger told
you that he

22 was the first responding deputy. He arrived
on

23 scene at 1:12 a.m., correct?

24 A. Yes.

25 Q. And that he responded to the
scene and saw

1 a damaged black Bentley on the side of the
road

2 and the vehicle upside down in the canal.

3 A . Yes.

4 Q. And that he stated that the
witness, Nicole

5 Ocoro, had already left the scene prior to
6 arrival.

7 A. Correct.

8 Q. And , again, that he called for the
tow

9 truck at 1:38 a.m., you have in parenthesis, to
10 recover the vehicle because fire rescue
personnel

11 told him the vehicle in the canal was not
12 occupied, correct?

13 A. Yes.

14 Q. And we're just going through
everything

15 that he told you during that time period,
correct?

16 A. Correct.

17 Q. And Deputy Reiger said the
driver of the

18 Bentley was not on scene when he arrived,
correct?

19 A. Correct.

20 Q. He then told me the driver of the
Bentley

21 called when you say -- when I say me, I mean

22 you. The driver of the Bentley then called

23 dispatch at 1:55, gave his location as south of

24 the collision scene, correct?

25 A. Yes.

1 Q. And then he told you that Deputy
Safford

2 responded to pick up the driver that was
3 identified as John Goodman?

4 A. Yes.

5 Q. And what did he say that Safford
then did?

6 A. He said Safford took him back to
the scene-

7 where fire rescue personnel

8 Q. Placed him in the back of the
rescue rig?

9 A. Yes.

10 Q. Okay. And then Reiger said that
he spoke

11 to Mr. Goodman and smelled a strong odor of
12 alcoholic beverage coming from his person in
the

13 back of the rescue rig.

14 A. Yes.

15 Q. Did you ask him, at that time,
 how close he

16 got to Mr. Goodman?

17 A. I don't remember.

18 Q. And then he told you that
 Goodman told him

19 that he stopped at the stop sign and then hit

20 something, but didn't know what it was,
 correct?

21 A. Correct.

22 Q. And then Reiger said that Sisters
 Towing

23 had responded, removed the vehicle from the
 canal,

24 found the driver was still belted into the

25 driver's seat; is that what he said?

1 A. Yes.

2 Q. And then that's when he called
3 for a
4 vehicle homicide unit; is that correct?

4 A. Yes.

5 Q. Does that conclude everything
6 that Deputy
7 Reiger told you in that time period when you
8 spoke
9 to him?

8 A. Yes.

9 Q. Now, according to your report at
10 3 :25 a.m.,
11 you then conducted a walk-through of the
12 scene; is
13 that correct?

12 A. Yes.

13 Q. So from when you arrived at 3:18
14 and 50
15 something seconds to 3 :25 a.m., you spoke to

both

15 Deputy Noel and Deputy Reiger and obtained
all of

16 that information, correct?

17 A. Yes.

18 Q. Then you walked over, you
observed the

19 damage to the Bentley?

20 A. Yes.

21 Q. You looked inside it, you saw the
airbags,

22 correct?

23 A. Yes ;

24 Q. You walked around over to the
Hyundai , and

25 you saw where it was hanging from the tow
truck?

1 A. Yes.

2 Q. And you took notand observed
the damage

3 to the Hyundai also, correct?

4 A. Yes.

5 Q. And then you walked over to the
6 intersection; is that correct?

7 A. Yes.

8 Q. You identified gauge marks?

9 A. Yes.

10 Q. You then looked and identified
also tire

11 marks.

12 A. Yes.

13 Q. Now, when you identify gauge
marks and tire

14 marks, do you have your flashlight with you,
do

15 you get down close to the ground? How do you

do

16 that?

17 A. It was very, very apparent in this

18 situation what each thing was.

19 Q. Okay. How did you do it

20 physically,

21 though? Did you just stand there, or did you

22 get

23 down and actually look to make sure that --

24 A. I just stood there and looked at it.

25 This

is a preliminary walk-through.

24 Q. Okay. You then followed the

25 path that the

vehicles took to find a -- and I'm assuming by

1 following, you had your flashlight because it's
2 dark out there, and you're walking along that
3 path; is that correct?

4 A. Correct.

5 Q. And then you walked all the way
up to the
6 canal and looked in the canal?

7 A. Yes.

8 Q. And then you walked from the
accident scene
9 south on 120th; is that correct?

10 A. Just a short distance, yes.

11 Q. Okay. Well, let's go to your
report, and

12 at the bottom of page 9, you say, I then saw a
set

13 of boot prints leading away from B 1 and
traveling

14 south on 120th, correct?

15 A. Correct.

16 Q. All right. And then you say that
the boot

17 prints lead to the address of 4193 120th South

18 where D 1 was found, which is approximately

19 10:3 8 -- 1,038 feet from the collision scene. Is

20 that what's in your report?

21 A. Yes.

22 Q. Okay. So you followed those boot
prints,

23 according to your report, to the address in
which

24 Mr. Goodman was found.

25 A. I don't remember if I walked all
the way

1 down to the address at that point.

2 Q. Would you agree that that's how
your report

3 reads that you did, though?

4 A. That's how it reads, yes.

5 Q. Okay. And if you had done that
the way

6 your report says, 1,038 feet is more than three

7 times a football field, correct?

8 A. Yeah.

9 Q. Okay. So that would have taken
quite a

10 while to do that?

11 A. It takes about five minutes.

12 Q. Okay. And then you would have
walked back

13 to your vehicle

14 A. Yes.

15 Q. -- after that? And then I think we

16 established at 3 :33, you then clear the scene
 and

17 head to Wellington Regional Hospital, correct?

18 A. Yes, yes.

19 Q. And the hospital is about five
 miles from

20 the accident scene?

21 A. Not very far.

22 Q. Do you know how many miles it
 is?

23 A. I don' t know.

24 Q. Do you know what time you first
 came into

25 contact wi th Mr. Goodman?

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

2 Q. I think you said earlier, you
 didn't have

3 to wait long for him to get out of radiology?

4 A. It wasn't very long.

5 Q. Can you give a time period, five
 minutes

6 A. Ten minutes, maybe.

7 Q. Ten minutes? Okay. At some
 point, you

8 also went to the lobby to speak to an attorney,

9 Wayne Byrd; do you recall that?

10 A. Yes.

11 Q. Where is the lobby located in
 relation to

12 where Mr. Goodman was when you spoke to
 him?

13 A. Very close proximity.

14 Q. Now, when you came into contact
 with

15 Mr. Goodman, you asked him for a consensual
blood

16 draw, right, and he said no.

17 A. Yes.

18 Q. And you told him that you had
probable

19 cause to take a forced blood draw from him,
and he

20 did not have the right to refuse, correct?

21 A. That's correct.

22 Q. You then instructed nurse Cecilia
Betts

23 to draw blood from Mr. Goodman, correct?

24 A. I did.

25 Q. Now, the search warrant -- you
talked about

1 writing search warrants and applying for
them
2 during the course of your career. Once you've
3 written a search warrant, you just have to
4 change tailor it to the facts of what you're
5 trying to get the next time, correct?

6 A. correct.

7 Q. So, like, if you wrote a search
warrant for
8 a black box, one time, well, maybe you need to
9 write a search warrant for a briefcase that's
10 located in a car, you would just change what
11 you're looking for, but the basics of the search
12 warrant template is the same, correct?

13 A. You'd have to change some
things, but the
14 template's about the same.

15 Q. And you have that in your
computer?

16 A. Yeah.

17 Q. Now, whenever you've obtained
search

18 warrants, you go through -- I think it was

19 established, you'd go through the prosecutor.
Do

20 you know what time it was that you called
Ellen

21 Roberts because she responded to this
particular

22 scene; do you know when you called her about
this

23 case?

24 A. I don't believe I called her.

25 Q. Do you know when anybody else
called her

1 from the Sheriff's Office to let her know?

2 A. I have no idea.

3 Q On February 12th of 2010, what
Judge was on

4 duty?

5 A I have no idea.

6 Q You didn't check?

7 A No.

8 Q You didn't call the on-duty
prosecutor?

9 A No.

10 Q You didn't do anything to try to
obtain a

11 search warrant, did you?

12 A. No.

13 Q. Okay.

14 MS. PARKER: Thank you. I have no

15 further questions.

16 THE COURT: Ms. Collins, any
17 redirect?

18 MS. COLLINS: Briefly, your Honor.

19 REDIRECT EXAMINATION

20 BY MS. COLLINS:

21 Q. Now, Investigator Snelgrove, you
 were only

22 on scene, preliminarily on the crash, from

23 3:18 a.m. until 3:33, when you left for the

24 hospital?

25 A. When I left for the hospital, yes.

1 Q Was one of the reasons that time
is so

2. short was because Officer Cruz and Officer
Noel

3 were already on scene and gathered a lot of
that

4 information for you?

5 A. Yes.

6 Q If Officer Cruz and Officer Noel
had not

7 been there for the better part of a half hour,
can

8 you opine how long you would have had to
remain on

9 scene to get sufficient information to develop

10 more probable cause?

11 A It would have taken a little bit
longer,

12 but not a whole lot longer.

13 Q Well , one of the reasons why you
would only

14 be there 15 minutes is because they were
already

15 there.

16 A Like I said, it was a preliminary
thing

17 when I go to the scene to establish probable

18 cause.

19 Q Do you remember if you walked
all the way

20 down to 120th Avenue South where the
footprints

21 the boot prints stopped that morning
originally at

22 3 :18 or 3:33 , or do you know if you did it later

23 on?

24 A I didn't -- did not walk down,
initially,

25 at that time, I just saw that there were one set

1 of boot prints leaving from the car.

2 Q So even though your report says
that's how

3 long it was, that was not the fact you added in
4 later after you did the full walk- through?

5 A Yes.

6 Q Now, even though you have a
search warrant

7 template, how long would it have taken you to
fill

8 in the facts of the crash, the facts of your

9 probable cause, things of that nature, even if
you

10 had a template already?

11 A. It still would have taken 30, 45
minutes.

12 MS. COLLINS: I don't have any

13 further questions, your Honor.

14 THE COURT: Anything else,

15 Ms. Parker?

16 MS. PARKER: No, your Honor.

17 THE COURT: Investigator
Snelgrove,

18 thank you very much, you're excused.

19 THE WITNESS: Thank you.

20 THE COURT: Any other witnesses
or

21 exhibits from the State?

22 MS. COLLINS: Just argument, your

23 Honor.

24 THE COURT: All right. Defense,

25 Ms. Parker, anything, witnesses or

1 exhibits?

2 MS. PARKER: Yes, your Honor, the
3 Defense would call Officer Melinda Hanton.

4 THEREUPON:

5 MELINDA HANTON,
6 after being called as a witness by the Defense
and
7 after being first duly sworn by the Clerk of the
8 Court, was examined and testified as follows:

9 THE WITNESS: I do.

10 THE CLERK: Thank you.

11 THE COURT: Good morning.

12 THE WITNESS: Good morning.

13 THE COURT: Once you get settled
in

14 and you're comfortable, please tell us your
15 name.

16 THE WITNESS: Officer Melinda

Hanton,

17 H-A-N-T-O-N.

18 THE COURT: H-A-N --

19 THE WITNESS: -- T-O-N.

20 THE COURT: And the first name
is

21 spelled?

22 THE WITNESS: M-E- L-I-N-D-A.

23 THE COURT: Thank you very
much.

24 And what agency are you with?

25 THE WITNESS: Palm Beach
Gardens

1 Police Department.

2 THE COURT: Thank you so very
much.

3 Ms. Parker.

4 MS. PARKER: Thank you, your
Honor.

5 DIRECT EXAMINATION

6 BY MS. PARKER:

7 Q. Good morning, Officer Hanton.

8 A. Good morning.

9 Q. Now, you're with Palm Beach
Gardens Police

10 Department; how long have you been
employed there

11 as an officer?

12 A. I'm in my 11th year.

13 Q. Do you currently hold any special
position

14 there at the police department?

15 A. I do.

16 Q. What it that?

17 A. I'm a DUI traffic enforcement
officer.

18 Q. And how long have you been the
DUI traffic

19 enforcement officer for the Palm Beach
Gardens

20 Police Department?

21 A. Since November of 2008.

22 Q. Okay. Now, do you have any
specific or

23 specialized training as it relates to identifying

24 drivers who are under the influence of alcohol
or

25 drugs?

1 A. Yes.

2 Q. What kind of training do you
have?

3 A. Besides the police academy and
in-service
4 trainings, I've gone through the standardized
5 field sobriety test class, DWI instructor course.
6 I'm a certified drug recognition expert. I've
7 gone through the symposium several years,
been
8 recertified three times as a DRE. I've also
gone
9 through medical foundations for visual
systems
10 testing, H D N for officers and prosecutors and
11 several other classes.

12 Q. Thank you. Now, you said you
were a
13 certified drug recognition expert. Can you
14 explain that a little bit more to the Court,

what

15 exactly that entails; how much training did
you

16 have to go through for that?

17 A. Well , once you've been doing
DUI

18 enforcement for a while, you have to actually

19 apply with the Institute of Police Technology
and

20 Management to actually get accepted into the

21 class. And for the application process, you
have

22 to turn in reports, you have to have the State

23 Attorney say that you're okay to go, you have
to

24 be signed off by your chief , and two other
DRE's

2 5 in the area have to sign off for you to go. Once

1 you're accepted into the program, there's a
2 two-day preschool , and then there's seven
3 days of
4 actual class after you pass the preschool. Once
5 you complete the seven-day class, you have --it
6 was --when I went, it was six months. It was
7 reduced to three months now. To complete 12
8 evaluations, have a DRE do a final evaluation,
9 do
10 a final knowledge exam , it's very long and
11 tedious.

12 Q. And there's very few drug
13 recognition
14 experts in -- certainly in Palm Beach County,
15 correct?

16 A. Correct.

17 Q. I'd like to bring you back to
18 February 27th
19 of 2009. Were you the DUI officer for the

Palm

16 Beach Gardens Police Department that day?

17 A. I was.

18 Q. And did you participate in a
county-wide

19 DUI enforcement operation that was called,
the no

20 refusal weekend?

21 A. I did.

22 Q. Did that include a -- a DUI
saturation

23 patrol?

24 A. Yes, ma'am.

25 Q. Could you explain to the Judge
what occurs

1 during a saturation patrol?

2 MS. COLLINS: I'm gonna object to
3 relevancy, your Honor.

4 THE COURT: Help me understand
how
5 it's relevant.

6 MS. PARKER: Judge, what -- we're
7 gonna get there, but she was able to obtain
8 a blood warrant in a very short period of
9 time during a DUI saturation patrol, and I
10 want to walk the Court through the process
11 that she went through.

12 THE COURT: So if I'm -- I'm
guessing
13 where you're going is, you're gonna
14 demonstrate through this witness that it's
15 possible to get a search warrant for a
16 blood draw on short notice when they're set

17 up to do so.

18 MS. PARKER: Yes, your Honor.

19 THE COURT: My recollection of
these

20 saturation -- everybody's onboard,

21 everybody's ready, the State's ready, the

22 police are ready and the duty Judges are

23 all ready for that type of thing. How is

24 that similar to what we've got going on

25 with the events involving the allegations

1 against Mr. Goodman? I mean, I'll -- let
2 me let you establish it, but know that I'm
3 concerned about that.

4 MS. PARKER: Okay, Judge.

5 THE COURT: The fact that you
6 might
7 have been able to get a search warrant for
8 a blood draw under the circumstances that
9 you're about to walk me through, I still
10 think that's different than on an average
11 night out there in the city. So I'll let
12 you go ahead and lay the record.

13 MS. PARKER: Thank you, Judge.

14 THE COURT: The objection is
15 overruled.

16 MS. PARKER: Can you explain to
17 the
18 Judge briefly what goes on during a

17 saturation patrol.

18 THE WITNESS: You go to a briefing
19 with a mutual aid agreement, we're told
20 Where to go and to do traffic enforcement,
21 look for drunk drivers, anybody who may be
22 impaired, and traffic infractions.

23 BY MS. PARKER:

24 Q. You mentioned mutual aid
agreement. Now,
25 you're an officer in Palm Beach Gardens, does
that

1 give you the ability to travel on different areas
2 of the county that aren't Palm Beach Gardens
3 jurisdiction and make DUI arrests?

4 A. Yes, ma'am.

5 Q. Now, prior to what we call that,
 no refusal

6 weekend, did you prepare an affidavit and
 search

7 warrant and have it readily available to you?

8 A. I didn't prepare it , it was given
 to me,

9 but I had it.

10 Q. Okay. Was one given to you that
 you had

11 the ability to put your own biographical

12 information in and add Defendant's
 information and

13 things to tailor it to specific cases?

14 A. Yes.

15 Q. Okay.

16 MS. PARKER: Your Honor, may I

17 approach the witness?

18 THE COURT: Yes.

19 BY MS. PARKER:

20 Q. I'm showing you what we marked

 as Defense 1

21 for the purposes of this hearing. Do you

22 recognize this?

23 THE COURT: Have you given a

 copy of

24 that to the State?

25 MS. PARKER: I have, Judge.

1 THE WITNESS: Yes.

2 BY MS. PARKER:

3 Q. And tell me what that is.

4 A. This is the blank warrant that we
were

5 given to fill in the information.

6 Q. Okay. And let me just have you
hold on for

7 a second. Basically, on that warrant, do -- did

8 you just have to put in the probable cause and
put

9 in the Defendant's identifying information and
any

10 biographical information specifically
pertaining

11 to you?

12 A. Yes.

13 Q. Okay. Now, the first night of the
DUI

14 saturation patrol, did you make an arrest for

DUI?

15 A. I did.

16 Q. And what was the name of the
person that

17 you arrested that night?

18 A. Mark Legionaise (phonetic).

19 Q. And after you placed him under
arrest for

20 DUI, where did you take him?

21 A. To the Palm Beach County
Breath Alcohol

22 Testing Center.

23 Q. And was that the mobile breath
testing

24 facility; was it, like, a van or was it at the

25 jail facility?

1 A. At the jail.

2 Q. Okay. And did you ask him to
submit to a

3 breath test?

4 A. Yes.

5 Q. And what did he do?

6 A. Refused.

7 Q. Okay. So then once that refusal
happened,

8 what's the next thing that happened?

9 A. I read him implied consent.

10 Q. Okay.

11 A. And he refused again.

12 Q. And then did you make an
attempt to obtain

13 a search warrant?

14 A. Yes.

15 Q. Can you walk the Judge how you
did that on

16 that evening?

17 A. I called you and let him -- let you
know

18 that he refused. After, I guess, looking up his

19 history and everything else, you told me to
come

20 to the command post , which is -- I believe it
was

21 Jog and Okeechobee, to go ahead and start
putting

22 the warrant information together. I still had
to

23 finish my reports, and once I finished my
report,

24 I transported the Defendant to the mobile
command

25 center.

1 Q. And then were you able to then
2 put the
3 probable cause information into the search
4 warrant?

5 A. I was.

6 Q. Okay. And then did any
7 prosecutor review
8 that?

9 A. Yes.

10 Q. Okay. After that was reviewed,
11 then how
12 did you go about getting that warrant signed?

13 A. Well , the Judge had already
14 been made aware
15 of what was already going on. I was sworn in
16 by
17 Sergeant Gray to the Judge. I spoke to her on
18 the
19 phone, and the warrant was faxed to her. She
20 signed it and faxed it back.

15 Q. Okay. And once you got to the
 area and
16 began to work on that search warrant
 procedure,
17 and -- from writing the search warrant to
 getting
18 it signed , was that a two, three-hour process?

19 A. It's at least an hour. I don't know
 the
20 exact time.

21 Q. Okay. All right. Thank you.

22 MS. PARKER: I have no further
23 questions.
24 Judge, I would like to submit that as
25 Defense Exhibit 1.

1 THE COURT: Any objection to
Defense

2 1?

3 MS. COLLINS: No, sir.

4 THE COURT: Defense Exhibit 1 in
5 evidence without objection.

6 (Defense Exhibit No. 1 received in
7 Evidence.)

8 MS. COLLINS: If I may, your
Honor?

9 THE COURT: Yes, you may
proceed.

10 CROSS EXAMINATION

11 BY MS. COLLINS:

12 Q. Now, have you ever gotten a
search warrant

13 for blood, for a DUI, serious bodily injury case
14 back in 2010?

15 A. No.

16 Q. Under law, you didn't have to get
a search

17 warrant back then, did you?

18 A. No.

19 Q. So as of 2010, you didn't have a
prewritten

20 search warrant for blood, did you?

21 A. Just the one that I had that was
given to

22 me that night.

23 Q. So for this special saturation
patrol,

24 Ms. Parker wrote you a search warrant, right?

25 A. Correct.

1 Q. She even included all of your
training and

2 experience so that you had something
prewritten

3 and ready to go?

4 A. Correct.

5 Q. And other than that, you
wouldn't have

6 that, correct?

7 A. Correct.

8 THE COURT: Let me just insert in
the

9 record, just in case someone reads this

10 later on down the road, at that time,

11 Ms. Parker was an assistant State attorney.

12 MS. COLLINS: Yes, your Honor,
thank

13 you.

14 THE COURT: If the reader hadn't

15 figured that out yet.

16 BY MS. COLLINS:

17 Q. In terms of the saturation patrol ,
based

18 upon your briefing, you knew that the search
19 warrants were already prewritten, correct?

20 A. Yes, ma'am.

21 Q. The Judge was already onboard
and knew what

22 you all were attempting to do?

23 A. Yes, ma'am.

24 Q. There was already an ambulance
on scene at

25 the command post, with paramedics, ready to
draw

1 the blood immediately upon the search
warrant

2 being executed; isn't that correct?

3 A. Yes, ma'am.

4 Q. Now, have you ever done search
warrants in

5 the middle of the night?

6 A. No.

7 Q. Never?

8 A. No.

9 Q. Even with your years doing the
DUI, DUI

10 crashes, you still never done a search warrant
in

11 the middle of the night for blood?

12 A. That's correct.

13 MS. PARKER: Objection, your
Honor,

14 asked and answered.

15 THE COURT: Sustained.

16 BY MS. COLLINS:

17 Q. Now, are you aware that
pursuant to Florida

18 law, back in 2009 , that you were actually
required

19 to have an original search warrant and
duplicate

20 to be able to be served on a person?

21 A. No.

22 Q. The search warrant that was
obtained on the

23 night of February 28, 2009, during the
saturation

24 patrol, from Mark Legionaise was done by fax?

25 A. Correct.

1 Q. Not an original.

2 A. Correct.

3 Q. Did you ever have an original to
be able to

4 serve to Mr. Legionaise to draw his blood?

5 A. Just what was faxed back.

6 Q. Let's go through the timeline.
Would you

7 agree with me that Mr. Legionaise was
stopped at

8 9:30 in the evening by Officer Bray
(phonetic)?

9 A. Correct.

10 Q. And would you agree with me
that he was

11 placed under arrest at approximately 9:45 that
12 evening?

13 A. Correct.

14 Q. Would you also agree that at
approximately

15 10:30 in the evening, you were then in route to
16 the jail with Mr. Legionaise?

17 A. Correct.

18 Q. So from the time that he was
stopped, it
19 took about an hour for you to complete your
20 investigation, to even depart the scene to get
to
21 the jail.

22 A. Correct.

23 Q. Had Mr. Legionaise been
involved in a crash
24 that night?

25 A. No, ma'am.

1 Q. So, you didn't have to investigate
a crash.

2 A. Correct.

3 Q. Was -- did Mr. Legionaise leave
the scene

4 of the arrest at all?

5 A. No.

6 Q. So you didn't have to find him
and figure

7 out who was involved in the case.

8 A. Correct.

9 Q. You arrived at the jail at
approximately

10 10:46; would you agree with that?

11 A. Yes, ma'am.

12 Q. Once you arrive at the jail , what
did you

13 have to do before you read the implied consent
to

14 Mr. Legionaise?

15 A. I conducted a 20 minute
 observation period.

16 Q. And once you do the 20-minute
 observation

17 period and he refused, you said you then had
 to

18 stop and write your report?

19 A. Yes.

20 Q. Now, at that point, had you
 already

21 called -- once he refused, had you already
 called

22 Ms. Parker to advise her that you had
 someone who

23 might fit the criteria for what she was looking

24 for at this saturation patrol?

25 A. Yes.

1 Q. How long approximately does it
2 take you to
3 write a probable cause affidavit just for a
4 non-crash, non-leaving the scene, no-injury
5 DUI?

6 A. Approximately an hour.

7 Q. About an hour? Now, did you
8 take an hour
9 to write your report before you went to the
10 command center?

11 A. My report was completed when I
12 left. I
13 don't know exactly how long it took me to
14 write
15 it.

16 Q. Did you send that report ahead of
17 time, to
18 have someone put it into the warrant for you?

19 A. No.

20 Q. So when you arrived at the

command center,

15 you just cut and pasted your report, your
probable

16 cause affidavit, right into the search warrant

17 affidavit that Ms. Parker had already
prepared?

18 A. Yes, ma'am.

19 Q. And because she already
prepared her

20 affidavit, there really was no delay in terms of

21 reviewing the warrant?

22 A. No, just what I added.

23 Q. Do you know what time the
search warrant

24 was presented to Mr. Legionaise to get him to
have

25 it signed -- to have it executed?

1 A. Off the top of my head, not the
exact time,

2 but I think it was between, like, 1:30 and

3 2 o'clock.

4 Q. Do you know who was given the
search

5 warrant to present to Mr. Legionaise?

6 A. Yes.

7 Q. And who was that?

8 A. Corporal Croucher.

9 Q. If I showed you a copy of Corporal

10 Croucher's report, would the times within it

11 reflect be able to refresh your recollection as

12 to what time the actual search warrant was

13 presented to Mr. Legionaise?

14 A. Yes.

15 MS. COLLINS: Let the record
reflect,

16 I'm showing report 09045572; may I
17 approach?

18 THE COURT: Yes.

19 BY MS. COLLINS:

20 Q. What time was the search
warrant , after it

21 had been faxed to a Judge and faxed back,
what

22 time were you able to present it to

23 Mr. Legionaise?

24 A. 1:55.

25 Q. 1:55 in the morning?

1 A. Yes, ma'am.

2 Q. So if you arrived at the jail at
10:46, and

3 your 20-minute observation period would have
taken

4 you to 11:06, it took almost three hours from
the

5 time he refused for you to write your report,
get

6 the search warrant by fax and get it served?

7 A. Yes, ma'am.

8 MS. COLLINS: I have no further
9 questions, your Honor.

10 THE COURT: Any redirect?

11 MS. PARKER: Yes, Judge.

12 REDIRECT EXAMINATION

13 BY MS. PARKER:

14 Q. Okay, Officer Hanton, I didn't tell
you

15 what to write in the search warrant, did I?

16 A. No.

17 Q. And, in fact, I e-mailed those
search

18 warrants to everybody way in advance to put
their

19 own biographical information in them and
then they

20 were pre-approved by myself; do you recall
that?

21 A. I remember you sending me the
search

22 warrant. I don't remember if I gave you my

23 information or if I put it in, I honestly don't

24 remember.

25 Q. But there was a lot of officers
that were

1 doing the search warrant , so it wouldn't be
2 reasonable, I would be doing putting
3 everyone's
4 information in the search warrant, correct?

4 A. Yes.

5 Q. Okay. Now, you made the arrest
6 and you

7 went to the BAT facility. The BAT facility
8 was

9 backed up significantly that night, correct?

10 A. You're asking me to remember a
11 long time

12 ago, I don't remember.

13 Q. Well , if you look in your report
14 that you

15 have in front you, what time is it that the
16 breath

17 test was administered?

18 A. There was no breath test.

19 Q. Well , the breath test was

requested by you,
15 start time and end time.
16 A. I can't read this copy.
17 Q. Do you see where it says 23?
18 A. This copy is really bad.
19 Q. Okay.
20 A. I can't read it.
21 Q. I think you have two in front of
you, of
22 the same copy.
23 MS. PARKER: Maybe the State has
a
24 better copy?
25 MS. COLLINS: I don't.

1 THE WITNESS: Yeah, they're both
2 really bad. I can't read the time, I'm
3 sorry.

4 BY MS. PARKER:

5 Q. So you don't see a 23 on there at
 the start
6 time and end time?

7 A. I can't read what this says at all.

8 Q. Okay, that's fair enough.
9 So you can't, as you sit here today, say
10 what time you offered a breath test to the
11 Defendant, right?

12 A. I can't remember.

13 Q. Okay. And so you don't know
 what time you
14 started the application to get the search
 warrant,
15 do you?

16 A. No.

17 Q. And you don't know what time
 you arrived

18 back to the command facility.

19 A. Correct.

20 Q. And on the report -- you have
 another

21 report in front of you that Greg Croucher
 authored

22 his PC affidavit. What time does he say that

23 he -- that the Defendant declined to have the

24 search warrant administered?

25 A. Sorry, there are a lot of papers.

1 Q. He says on the above date and
time, what

2 time is that?

3 A. 1:35.

4 Q. 1:35, not 1:55, as previously
stated,

5 correct?

6 A. Yes.

7 Q. And you don't know what the
law is

8 regarding faxed warrants, original signatures,

9 electronic transmissions. You don't have any
clue

10 about that, do you?

11 A. No.

12 MS. PARKER: Okay. Thank you, I
have

13 no further questions.

14 THE COURT: Ms. Collins,
anything

15 else?

16 MS. COLLINS: No, sir, thank you.

17 THE COURT: Officer Hanton,
thank you

18 so very much, you're excused, have a nice
19 day.

20 THE WITNESS: Thank you, you too.

21 THE COURT: Any other witnesses
or

22 exhibits from the Defense?

23 MS. PARKER: Not from the
Defense,

24 your Honor.

25 THE COURT: Anything rebuttal,
State?

1 MS. COLLINS: No, just argument,
your

2 Honor.

3 THE COURT: Let's go to argument,
4 Ms. Parker.

5 MS. PARKER: Your Honor, the
Fourth
6 Amendment to the United States constitution
7 provides the right of people to be secure
8 in their person's houses, papers in effect
9 against unreasonable searches and seizures.
10 Florida's constitution repeats the
11 same language from the United State's
12 constitution, but also informs the
13 citizenry of the state of Florida that this
14 right shall be construed in conformity with
15 the Fourth Amendment to the United States
16 constitution as interpreted by the United

17 States Supreme Court. Articles or
18 information obtained in violation of this
19 right shall not be admissible in evidence
20 if such articles or information would be
21 admissible under the decisions of the
22 United States Supreme Court.
23 Now, in Schmerber versus California,
2 4 your Honor, United States Supreme Court
25 case from 1966, Supreme Court of the U. S.

1 recognizes a drawing of an individual's
2 blood for evidentiary purposes implicates
3 the Fourth Amendment, requiring that a
4 warrant be obtained. Over the years, the
5 Supreme Court has been carved out
6 exceptions to the Fourth Amendment warrant
7 requirements, finding that in certain
8 circumstances, a search and/or seizure is
9 reasonable, even when conducted without a
10 warrant. Arguably, there are two
11 exceptions that would apply in this
12 particular case; consent and exigent
13 circumstances. With consent, we look to
14 the totality of the circumstances, and
15 that's the test from *United States versus*
16 *Mendenhall*, and whether consent was
knowing

17 and voluntary.
18 Number two, the exigent
19 circumstances, that's really where the
20 focus is here today. Over the years, the
21 Supreme Court has recognized an exigent
22 circumstance exception to the Fourth
23 Amendment, and it applies when the
24 exigencies of the situation make the needs
25 of law enforcement so compelling that a

1 warrantless search is objectively
2 reasonable under the Fourth Amendment,
such
3 as entering a home without a warrant to
4 render aid; protecting an injured occupant,
5 injuring a burning building. Also the
6 court -- Supreme Court has applied the
7 exigent circumstances exception to prevent
8 imminent destruction of evidence.
9 The analysis of exigent circumstance
10 as it relates to blood draws was set out in
11 Schmerber versus California as previously
12 stated. The United States Supreme Court
13 noted that a search warrant would
14 ordinarily be required for intrusion into
15 the human body such as a withdrawal of the
16 person's blood.

17 Now, Justice Brennan in the Schmerber
18 case, carved out an exception where a
19 police officer might reasonably believe he
20 was confronted with an emergency in which
21 the delay necessary to obtain a warrant
22 under the circumstances threatened the
23 destruction of that evidence.
24 The Court permitted the withdrawal in
25 the Schmerber case on the -- based on the

1 existence of probable cause and the exigent
2 circumstances of dissipating blood
3 evidence, and the difficulty of obtaining a
4 warrant was the testimony in that case.
5 But the Court carefully limited its
6 decision in caution.
7 We thus conclude that the present
8 record shows no violation of a petitioner's
9 right under the Fourth and 14th Amendment
10 to be free of unreasonable searches and
11 seizures. It bears repeating, however,
12 that we've reached the judgment only on the
13 facts of the present record. The integrity
14 of an individual's person is a cherished
15 value of our society, that we today hold
16 that the Constitution does not forbid the
17 State's minor intrusions into an individual

18 body under stringently limited conditions.
19 It in no way indicates that it permits more
20 substantial intrusions under our other
21 conditions.
22 So what the Supreme Court did not do
23 in 1966 is give carte blanche to law
24 enforcement to take blood in every DUI case
25 without obtaining -- making an effort or an

1 attempt to obtain a warrant. And over the
2 40 years since Schmerber was decided,
3 communication technology has vastly
4 improved, allowing for oral warrants,
5 telephonic warrants, fax warrant, e-mail
6 warrants and other innovations. As your
7 Honor's aware, the Judges now have iPads to
8 obtain their warrants.

9 The United States Supreme Court
10 resolved a 46-year varied interpretation by
11 courts of the holding in Schmerber by
12 granting certiorari in Missouri versus
13 McNeely, and that case was decided in 2013.

14 The Supreme Court stated in that particular
15 case that the principle applies to the type
16 of search at issue in this case. It was a
17 DUI blood draw case, which involved a

18 compelled physical intrusion beneath
19 Mr. McNeely's skin and into his veins to
20 obtain a sample of his blood for use as
21 evidence in a criminal investigation. Such
22 an invasion of bodily integrity implicates
23 an individual's most personal and
24 deep-rooted expectations of privacy.
25 In McNeely, the Supreme Court held

1 that the natural dissipation of alcohol
2 from a person's bloodstream does not, in
3 and of itself, constitute, per say,
4 exigency. And there's drunk driving
5 investigations where police officers can
6 reasonably obtain a warrant before a blood
7 sample can be drawn without significantly
8 undermining the efficacy of the search.
9 The Fourth Amendment mandates that they
10 do
11 so, Judge.
12 The issue in McNeely, as was stated
13 by Justice Sotomayor is as follows: The
14 question presented here is whether the
15 natural metabolation (sic) of alcohol
16 metabolization of alcohol, is in the
17 bloodstream presents a, per se, exigency

17 that justifies an exception to the Fourth
18 Amendment's warrant requirement for
19 nonconsensual blood testing in all drunk
20 driving cases. We conclude that it does
21 not. We hold consistent with the general
22 Fourth Amendment principle that exigency in
23 this context must be determined case by
24 case based on the totality of the
25 circumstances. Therefore, McNeely requires

1 exigent circumstances to have been proven
2 by other means before the blood test can be
3 declared admissible in the absence of a
4 warrant.
5 McNeely affirmed what the Schmerber
6 report said all those years earlier and
7 relied upon it for its holding. In doing
8 so, the Supreme Court disapproved of any
9 bright line rule suggesting that
10 venipuncture in all DUI arrests, cases,
11 simply because, one, the blood sample is
12 withdrawn in a medically approved manner
13 and, two, probable cause exists. It's
14 not business as usual, is what the Court said.
15 In State versus Benube (phonetic),
16 which is a Second District Court of Appeal
17 case from 1997, the Court concluded that

18 the delay of approximately four hours
19 between the driving and the blood alcohol
20 test is not unreasonable and would not
21 affect the admissibility of that blood
22 sample.
23 Judge, the State's relying on
24 316.1933, basically saying that because the
25 statute says that law enforcement may use

1 reasonable force, if necessary, to require
2 a person to submit to the administration of
3 a blood test, that that means that they can
4 get blood whenever they want in a fatality
5 case or a serious bodily injury case as
6 long as they have probable cause. Nothing
7 in section 316.1933 says that law
8 enforcement is required to draw blood or
9 that they are allowed to circumvent the
10 constitutional protections afforded to each
11 citizen.
12 The presence of the applied consent
13 statute does not relieve police officers
14 from their need to comply with the
15 constraints of the Fourth Amendment and of
16 Schmerber. The compelled blood test, even
17 when administered to -- when administered

18 pursuant to the State's implied consent
19 statute laws is still a search subject to
20 Fourth Amendment protections.
21 So now let's apply the facts, what we
22 learned here in court to this law, Judge.
23 First of all, as I said, that two of the
24 exceptions to the warrant requirement would
25 apply in this particular case. First of

1 all, this is a consensual blood draw. You
2 heard, out of Investigator Snelgrove's
3 mouth, no, this was a forced blood draw, he
4 didn't consent, this was not voluntary, so
5 that exception would not apply.
6 Secondly, we look to the exigent
7 circumstances exception. What we know,
8 according to officer -- Investigator
9 Snelgrove's testimony, deputies arrived on
10 scene for -- at 1:12. No deputy goes into
11 the canal. Fire rescue doesn't dive into
12 the canal. And it's not until 2:11 in the
13 morning, where they even make a
14 determination that they can't determine if
15 there's somebody in the vehicle. No one
16 ever went into the canal with any dive
17 gear.

18 So the State wants the Court to take
19 this period of time, where there wasn't a
20 diligent investigation going on, and they
21 want to say that, well, then, now, it's
22 exigent. Deputies and fire rescues, in
23 action, that delayed the determination as
24 to whether or not this was a fatality. It
25 wasn't until 2:31 a.m., when the tow truck

1 pulled the Hyundai out of the canal, did
2 they make a determination that this was a
3 fatality. And then what do we find out
4 from Investigator Snelgrove, that he wasn't
5 called until 3 :10 in the morning. So now
6 there's another 40 minutes that a traffic
7 homicide investigator isn't even called to
8 the scene. Again, deputies in action at
9 the scene and they're not doing an
10 investigation. What's important is that
11 Mr. Goodman was in police custody since his
12 911 call at 1:55 in the morning.
13 We heard that Deputy Reiger comes
14 into contact with him and makes certain
15 observations so much -- they're so
16 important, that he tells Investigator
17 Snelgrove, when he comes to the scene.

18 What does Deputy Reiger tell Snelgrove?
19 Well , he establishes a DUI. He says --
20 Mr. Goodman says he was driving, we've got
21 a crash, here's his vehicle, he smelled
22 alcohol, and he noticed signs of
23 impairment. Deputy Reiger had made the
24 determination that Mr. Goodman was driving
25 under the influence, and as Investigator

1 Snelgrove admitted, it was a misdemeanor
2 DUI. But what happened? Mr. Goodman was
3 transported to the hospital and no one,
4 nobody at the Sheriff 's Office did any
5 investigation into DUI, nothing. They just
6 sent him to the hospital, sent him with two
7 baby-sitters, and we don't even know who
8 they are, and no further DUI investigation
9 was conducted.

10 Then at 2:31, they declared a traffic
11 fatality and Investigator Snelgrove
12 responds to the scene. What I think is
13 interesting to note, that he took a total
14 of 15 minutes. He describes everything he
15 did to this Court today, and that happened
16 within a 15-minute time frame. That's all
17 he spent at that scene to develop his

18 probable cause affidavit that they were
19 waiting for, that -- you know, that they're
20 saying, you know, we'll take all this time.
21 and that's why we can't get a search
22 warrant. Fifteen minutes is all he took,
23 Judge. He made no effort to obtain a
24 search warrant, no prosecutor was
25 consulted, no Judge was called. Law

1 enforcement's in actions and failure to
2 timely respond and conduct any DUI
3 investigation cannot and should not be the
4 basis for exigent circumstances. They
5 can't create exigency, Judge, they had all
6 the information that they needed when they
7 came into contact with Mr. Goodman, prior
8 to transporting him at 2:26 a.m. to
9 complete a DUI investigation. They chose
10 not to, they made no effort, and they took
11 Mr. Goodman's blood without his consent in
12 violation of his Fourth Amendment rights.

13 THE COURT: Thank you very
much,

14 Ms. Parker.

15 MS. PARKER: Thank you.

16 MS. COLLINS: First of all, your

17 Honor

18 THE COURT: Just one second.
Let me

19 catch up here first.

20 MS. COLLINS: Sure.

21 THE COURT: All right, Ms.
Collins,

22 you may proceed.

23 MS. COLLINS: Yes, your Honor.

24 First of all, since you indicated

25 that you received the State's response, I

1 don't want to bludgeon you to death and
2 read it and cover it over and over again
3 because I would rely on my response, it was
4 very well written, inputted from other
5 counties as I indicated.
6 I do want to take the time, though,
7 to briefly go through the State's
8 arguments. As far as I know, this is the
9 first time that Palm Beach County has
10 addressed the McNeely issue, and as such, I
11 encourage the Court to not just take the
12 easier route, which frankly is the good
13 faith exception, which the State should win
14 every day of the week, there is no
15 question, but that back in 2010, the law of
16 the land in Florida was that our complied
17 consent statutes were stronger than the

18 Fourth Amendment. They've survived
19 significant constitutional attack,
20 courts of land said that it was and the
21 constitutional in nature, that if the
22 Court -- excuse me -- if the officer
23 determined there was probable cause for, in
24 this case, a death, or serious bodily
25 injury, then the officer was allowed to

1 draw blood if they had probable cause to
2 believe the person was driving under the
3 influence.

4 What the Defense is essentially doing
5 is, number one, asking to make that statute
6 unconstitutional. But it's not. McNeely
7 really doesn't change the law. The facts
8 in McNeely are so out from what we have
9 here, that it is just night and day.

10 The McNeely facts were a defendant
11 who was stopped in a standard DUI arrest,
12 refused, and then the officer took him to
13 the hospital and had blood drawn
14 on -- a forced blood draw without a search
15 warrant, which was even contrary to the
16 Missouri statutes that exist. The McNeely
17 Court, including Justice Sotomayor,

18 actually listed Florida's implied consent
19 law specifically, and said that McNeely
20 won't have that much affect on the rest of
21 the states because these statutes exist.
22 The officers relied on the courts of
23 land on the statutes that existed back in
24 2010, so, again, the good faith exception
25 is clearly very in support of the facts

1 that we have here because Schmerber had
2 been interpreted two different ways, and in
3 Florida, interpreted the way that was done
4 by statute. But even with the Schmerber
5 interpretation, our courts and our
6 legislature even went further to enact the
7 implied consent law that had more strict
8 construction.

9 What's important here under the
10 Fourth Amendment is the balancing test of
11 privacy interests versus compelling state
12 interests. There's no question that the
13 interest that exists in this case are
14 compelling State interests. We have a
15 death, we have someone who is operating a
16 motor vehicle on the roads of the state of
17 Florida in an impaired way. And when you

18 look at the cases that have come out of
19 Schmerber, that have come out of McNeely,
20 the facts that exist in this case are
21 actually more compelling and more exigent
22 than many of the other facts that exist.
23 In the Rodriguez case, the State cited out
24 of Utah and the Johnson case that the State
25 cited out of Iowa, both of which were cited

1 by the McNeely courts in situations where
2 exigency was found.

3 The Defense wants to say that the
4 officers weren't diligent on the scene or
5 the fire rescue personnel weren't diligent
6 on the scene and because of that, there was
7 not exigency.

8 Well, your Honor, I submit to you,
9 there's no fact -- there's no facts here
10 before the Court that there was any
11 malfeasance or, any misfeasance or any
12 negligence on the part of officers. Quite
13 frankly, if they knew that Scott Wilson was
14 in the car earlier, I'm sure that things
15 would have happened in a different way.

16 But as you heard, even from Defense's own
17 witness, Linda Hanton, even on a standard

18 misdemeanor, no crash, no leaving the scene
19 DUI that was referenced by Officer Hanton,
20 it took from 9:30 until 1:30 or 2 o' clock
21 in the morning to get a search warrant in
22 that sort of situation.
23 Here we have a situation where,
24 number one, John Goodman left the scene,
25 and he was gone for over an hour. That, in

1 and of itself , creates such a delay with
2 exigency, that when the body was found
3 approximately 30 minutes later, we're
4 already at the point where we've got
5 compelling State interests such that
6 exigency would compel the blood draw to be
7 done superseding the privacy interests of
8 the individual.
9 It's quite interesting that the
10 warrant that was obtained , and I would
11 agree with the Court that the Defense is
12 trying to compare apples and oranges, the
13 fact that the stars aligned , and we had a
14 pre-approved warrant with a pre-approved
15 Judge and a prosecutor who was awake and on
16 scene and an ambulance that was already on
17 scene, ready to draw the blood , and even

18 then it took a couple of hours to get the
19 search warrant done, shows even more that
20 there was exigency in this case; that by
21 the time Troy Snelgrove got to the
22 hospital, three hours had past, it would
23 have taken at least two or two-and-a-half
24 hours to get a search warrant after that.
25 And as such, your Honor, we would rely on

1 our memorandum, we would rely on the case
2 law to say that, number one, the Florida
3 statute is constitutional , that it does
4 comply with what McNeely requires.
5 Number two, that there was exigent
6 circumstances given the delay with
7 Mr. Goodman leaving the scene, the delay in
8 locating the body because the car was
9 pushed into the canal, upside down, and
10 because of that, fire rescue personnel were
11 not able to locate the body in a timely
12 fashion, unfortunately. That Mr. Goodman
13 was injured, had to be transported to the
14 hospital, had to get radiology done, that
15 was a delay. That traffic homicide
16 investigator, both Noel, Cruz and Snelgrove
17 had to investigate the crash to develop

18 probable cause, had to go to the scene.
19 And all of those things show the exigent
20 circumstances that exist under law.
21 And then finally, even if we don't
22 have a constitutional statute, because the
23 State feels that we do, even if we don't
24 have exigent circumstances, which the State
25 feels we do, then finally, good faith

1 demands that the Court deny the motion
2 because the good-faith basis, as the Court
3 is well aware, goes to not correct a Fourth
4 Amendment wrong, but to dissuade police
5 misconduct. And in this case, the police
6 were doing what the statute told them to
7 do, which was a mandate. You shall draw
8 the blood. And to do what the legislature,
9 what the courts and what the training had
10 told them they were required to do. And as
11 such, there would be nothing appropriate in
12 granting this motion because good faith
13 demands that they were doing what they were
14 told to be doing. So based upon that, your
15 Honor, the State would ask you to deny the
16 motion.

17 THE COURT: All right, thank you

very
18 much.
19 Any rebuttal, Ms. Parker?
20 MS. PARKER: No, your Honor.
21 THE COURT: All right, thank you
very
22 much.
23 Okay. Where are we with regard to --
24 we're going to do a little case management
25 here. What's going on in the next couple

1 of weeks, and are we still on track for our
2 start date?

3 MR. JOHNSON: We have a number
4 of
5 depositions. There are a number of Defense
6 experts that have been listed. We have, I
7 believe, most, if not all of them, set this
8 month, or, I believe, it's the end of the
9 month. We have, I think, 14 depositions,
10 13 or 14 depositions --

11 MS. COLLINS: 19.

12 MR. JOHNSON: -- of witnesses that
13 we've been able to locate names with I.D.
14 numbers. Everything's set. We're on -- as
15 far as we're concerned, the State's
16 concerned, we're on track and eager and
ready to get this -- this started on

17 March 3rd.

18 THE COURT: Okay. And is

19 Mr. Duncan?

20 MR. DUNCAN: Judge, we conducted
the

21 inspection of the Bentley. We have turned

22 over the idea to the State of that. I

23 believe the State has scheduled a

24 deposition of our expert in Boston on the

25 14th of this month. I would anticipate

1 that we will be scheduling the motion to
2 dismiss shortly thereafter. I'm sure the
3 State wants to have the benefit of taking
4 the deposition of our expert, who inspected
5 the Bentley, before you are asked to rule
6 on the motion. We anticipate filing that
7 motion shortly, through the cooperation
8 with the State. We obtained Chubb
9 Insurance, telephone records that we're
10 incorporating into the motion. We just
11 received those yesterday. So we're trying
12 to cooperate with the State in making
13 arrangements for our experts to be deposed
14 and move forward. I know that there's been
15 some delay in terms of some experts.
16 Ms. Parker.

17 MS. PARKER: Judge, I've been

trying

18 to get with the State to nail down -- we

19 have five experts that are out of state.

20 So that's the only thing we're still

21 waiting on. Those aren't scheduled for

22 deposition yet.

23 MS. COLLINS: We'll been doing
that

24 today.

25 THE COURT: All right. But
everybody

1 that -- everybody's hired the experts that
2 they want, no one's looking for more
3 experts at this point?

4 MS. COLLINS: Well, we haven't
5 deposed their expert yet, so we don't know
6 what they're gonna to say. We have five
7 new experts that we have not deposed yet,
8 so we won't know.

9 THE COURT: Okay. All right, so the
10 door's open, you're suggesting to hire
11 rebuttal experts. What's the subject
12 matter of their expertise; what are these
13 five different folks gonna

14 MS. PARKER: Biomechanical
 engineers,
15 toxicologist, chemical analyst.

16 MS. COLLINS: It's a

17 neuropsychologist, a pharmacologist, an
18 analytical chemist , a biomechanical
19 engineer and a biomechanical M.D.

20 THE COURT: All right.

21 MR. JOHNSON: Most of the issues,
22 Judge, have been litigated, and although
23 the Defense is using different experts, I
24 think the subject matter will help to
25 expedite, you know, our responses and

1 our -- any rebuttal that we feel the
2 necessity. Since we're doing all this in
3 January, I hope, it should not -- we should
4 have time to -- to respond if necessary.

5 THE COURT: And is everybody
6 seeing -- everybody that wants to see the
7 car, has seen the car? Everybody that
8 is the disposition of the car a closed
9 issue, or is anybody fussing over that?

10 MR. JOHNSON: I believe it's going to
11 be the subject of a motion to dismiss, your
12 Honor.

13 THE COURT: But other than that.

14 MR. JOHNSON: Other than that, at
15 this point, we haven't felt the necessity
16 of seeing the car based on what we have in
17 our possession. But after we do re-depose

18 their expert , Mr. Serdar, we may -- we may
19 take a look at it.

20 THE COURT: All right.
 Anything else

21 I can do by way of facilitating everybody
22 get ting prepared? Looks good? All right.
23 Ms. Collins.

24 MS. COLLINS: Judge, I just want to
25 let you know that I don't -- I need copies

1 of all the case law mentioned in my
2 memorandum. I don't know if you wanted
3 those.

4 THE COURT: We can get them.

5 MS. COLLINS: Pardon?

6 THE COURT: I said I can get
them.

7 I've got it.

8 MS. COLLINS: I already have them
9 printed, if you don't want to fill in more
10 (Indiscernible.)

11 THE COURT: No, thank you, I
12 appreciate that. I appreciate the offer
13 and your discretion in not generating more
14 paper.

15 All right, yeah, I'll take the
16 mystery out of it. I am gonna deny the

17 Motion to Suppress the blood, but I am
18 gonna write on it because you are right,
19 Ms. Collins, that has not yet been
20 addressed since Missouri versus McNeely,
21 and I think that the appellate courts
22 across the state are gonna be chewing on
23 our statutes as they relate to the McNeely
24 decision, so I'll get that out a quick as
25 possible. I share that with you so that

1 you could not waste time waiting for, which
2 way am I gonna go on this motion, but I am
3 gonna suppress it, but I'll put it in
4 writing so that the appellate courts can
5 take a look at it and weigh in on it as
6 time unfolds,
7 Okay. Anything else?

8 MR. DUNCAN: No, sir.

9 THE COURT: Thank you so very
 much

10 for you time. Have a good weekend.

11 Happy New Year, everybody.

12 (Proceedings concluded.)

1 C E R T I F I C A T E
2
3 T H E S T A T E O F F L O R I D A ,
4 C O U N T Y O F P A L M B E A C H .
5 I , N A N C Y F I S H E R , S c o p i s t f o r t h e
6 F i f t e e n t h J u d i c i a l C i r c u i t , C r i m i n a l D i v i s i o n ,
 i n
7 a n d f o r P a l m B e a c h C o u n t y , F l o r i d a , d o
 h e r e b y
8 c e r t i f y t h a t I w a s a u t h o r i z e d t o a n d d i d e d i t
 a n d
9 p r i n t t h e f o r e g o i n g p r o c e e d i n g s b e f o r e t h e
 C o u r t
10 a t t h e t i m e a n d p l a c e a f o r e s a i d a n d t h a t t h e
11 p r e c e d i n g p a g e s n u m b e r e d f r o m 1 9 t o 1 5 7 ,
12 i n c l u s i v e , r e p r e s e n t a t r u e a n d a c c u r a t e
13 t r a n s c r i p t i o n o f c o u r t r e p o r t e r , I L O N A
 L U P O W I T Z ' S
14 s t e n o n o t e s t a k e n a t s a i d p r o c e e d i n g s .

15 IN WITNESS WHEREOF, I have hereunto
16 affixed my official signature this 30th day of
17 January 2015.

18

19

20

21 MELISSA SOTILLO, Manager

22 Court Reporting Services

23

24

25