

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

WILLIAM F. WALSH, IV,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**On Petition For A Writ of *Certiorari* To The United States Court of Appeals
for the Ninth Circuit**

**APPENDIX (VOLUME III) – PRESENTED SEPARATELY UNDER S. CT.
R. 14.1(i)**

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1 Q. AND THERE IS BOTH DATE AND TIME INDICATED FOR THE
2 DOWNLOADS. THE TIME ON THOSE --

3 A. YES.

4 Q. -- IS THAT UNIVERSAL TIME, THE UTC TIME THAT WE TALKED
5 ABOUT EARLIER?

6 A. CORRECT.

7 Q. SO IF SOMEONE WANTED TO KNOW WHAT TIME THAT WAS, HOW WOULD
8 THEY FIGURE IT OUT?

9 A. YOU WOULD SUBTRACT -- WELL, YOU WOULD FIGURE OUT WHAT TIME
10 OF YEAR IT WOULD HAVE BEEN. AND THEN WE HAVE DAYLIGHT SAVINGS
11 TIME, SO IT WOULD BE EITHER EIGHT OR SEVEN HOURS. AT THAT
12 PERIOD OF TIME IN THE YEAR IT WOULD HAVE BEEN SEVEN HOURS.

13 SO YOU WOULD SUBTRACT THE TIME THAT IS LISTED ON THIS
14 PRINTOUT. YOU WOULD SUBTRACT SEVEN HOURS FROM THE TIME THAT IS
15 PRESENT ON THE PRINTOUT.

16 Q. JUST ON THE PART THAT IS UP THERE, I SEE THE DATE 3/26/15.
17 WAS THAT THE FIRST DATE THAT THERE WERE DOWNLOADS INDICATED IN
18 THIS FOLDER?

19 A. I BELIEVE SO, YES.

20 Q. DO YOU RECALL THE LAST DATE?

21 A. I BELIEVE IT WAS MAY 22.

22 Q. OKAY. AND YOU SAID HOW MANY FILES ARE REFLECTED IN THIS?

23 A. 375 COMPLETED.

24 Q. AND YOU TALKED ABOUT THAT RANGE OF DATES. WERE THERE A
25 NUMBER OF DATES BETWEEN THAT MARCH 26 AND THE LAST DAY IN MAY

1 OF 2015 WHEN DOWNLOADS WERE DONE INTO THIS ARES FOLDER THAT IS
2 REFLECTED?

3 A. YES.

4 Q. AND THEN THERE WAS ONE MORE COLUMN THERE. I SEE IT SAYS
5 "TRUE." THERE IS ONE MORE COLUMN. WHAT DOES THAT INDICATE?

6 A. THAT SHOWS EACH FILE THAT WAS DOWNLOADED ONTO THE SUBJECT
7 HARD DRIVE, THE LAPTOP. ONCE IT WAS DOWNLOADED INTO THE "MY
8 SHARED FOLDER," THIS WOULD BE WHETHER OR NOT THAT FILE WAS
9 CODED AS AVAILABLE FOR DISTRIBUTION TO OTHER USERS ON THE
10 NETWORK. AND EACH OF THESE VIDEOS WERE MARKED AS TRUE OR
11 AVAILABLE FOR DOWNLOAD DISTRIBUTION TO OTHER USERS.

12 Q. AND JUST TO BE CLEAR, WHAT YOU'RE SAYING IS YOU REVIEWED
13 EACH OF THE PAGES OF EXHIBIT 21. AND FOR EACH OF THOSE FILES
14 IT INDICATED TRUE AS TO AVAILABLE FOR DOWNLOAD; IS THAT
15 CORRECT?

16 A. CORRECT.

17 Q. WERE YOU ABLE TO LOCATE EVIDENCE OF ANY PARTICULAR SEARCH
18 TERMS BEING USED BY THE USER ON THE ARES NETWORK?

19 A. YES.

20 Q. WHAT WAS THE MOST FREQUENTLY USED TERM THAT YOU FOUND?

21 A. THE TERM "PEDO," P-E-D-O.

22 Q. IN YOUR TRAINING AND EXPERIENCE, WHAT DOES THAT SEARCH
23 TERM INDICATE?

24 A. PEDO?

25 Q. WHAT IS IT SHORT FOR?

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1 **A.** PEDO IS SHORT FOR PEDOPHILIA OR PEDOPHILE. IT'S A
2 SPECIFIC SEARCH TERM THAT IS VERY SPECIFIC FOR THIS LEVEL OF
3 CONTENT. THAT SEARCH TERM WILL BRANCH OUT INTO OTHER GENRES OF
4 THE MATERIAL. SO THE TERM PEDO IS AN UMBRELLA, SO TO SPEAK,
5 FOR CONTENT THAT LIES UNDERNEATH IT.

6 **Q.** NOW, WHEN YOU WERE CONDUCTING YOUR INVESTIGATION IN APRIL
7 OF 2015 AND MAY OF 2015, YOU INDICATED THAT THE COMPUTER THAT
8 YOU DOWNLOADED FROM -- THE COMPUTER FROM WHICH THE VIDEOS WERE
9 DISTRIBUTED WAS USING LIMEWIRE; IS THAT CORRECT -- OR LIME PRO?

10 **A.** LIME PRO, YES.

11 **Q.** LIME PRO. IN LOOKING AT THE DATA ON THE SEIZED DELL
12 LAPTOP, ON THE HARD DRIVE, DID YOU FIND DATA INDICATING
13 SPECIFICALLY THE USE OF LIMEWIRE OR LIME PRO?

14 **A.** YES, I DID.

15 **Q.** AND WHAT DID YOU FIND? DID YOU FIND ACCESS TO ANY
16 PARTICULAR WEBSITES?

17 **A.** YEAH. ARE YOU TALKING ABOUT THE SPECIFIC ACQUISITION OF
18 LIME PRO ON THE DEVICE?

19 **Q.** CORRECT.

20 **A.** WHAT I FOUND IN THE FORENSIC REVIEW OF THE HARD DRIVE WERE
21 ARTIFACTS SHOWING WHEN THE SOFTWARE LIME PRO WAS ACQUIRED AND
22 PURCHASED AND THEN SUBSEQUENTLY DOWNLOADED AND INSTALLED ON THE
23 LAPTOP COMPUTER. THAT THEN BECAME THE VEHICLE FOR USE OF THE
24 ARES NETWORK THAT WAS ALSO FOUND ON THE DEVICE, AND THE
25 ACQUISITION AND DISTRIBUTION OF THE CHILD PORNOGRAPHY CONTENT.

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1 Q. MAKE SURE TO KEEP YOUR VOICE UP.

2 A. SORRY. I'M TRYING NOT TO COUGH, TOO, SO IT'S A BALANCE.

3 Q. DID YOU SPECIFICALLY FIND EVIDENCE INDICATING THE PURCHASE
4 OF THE SOFTWARE?

5 A. YES.

6 Q. IF YOU WOULD, PLEASE, WOULD YOU LOOK AT EXHIBIT 22 THERE
7 IN YOUR BINDER?

8 A. YES.

9 Q. DO YOU RECOGNIZE THAT?

10 A. I DO.

11 (EXHIBIT NO. 22 MARKED FOR IDENTIFICATION)

12 Q. (BY MS. CABRAL): WHAT DO YOU RECOGNIZE IT AS?

13 A. THIS IS THE -- THIS WAS A SEGMENT OF AN EMAIL THAT WAS
14 RECOVERED ON THE HARD DRIVE OF THE DEVICE THAT WAS SENT.

15 Q. WITHOUT GOING INTO THE CONTENT, JUST GENERALLY WHAT IS IT?

16 A. IT'S A RECEIPT OF THE ORDER FOR THE LIME PRO.

17 MS. CABRAL: THE GOVERNMENT MOVES TO ADMIT
18 EXHIBIT 22, YOUR HONOR.

19 MR. CARLOS: NO OBJECTION.

20 THE COURT: RECEIVED, AND IT MAY BE PUBLISHED.

21 (EXHIBIT NO. 22 RECEIVED INTO EVIDENCE)

22 Q. (BY MS. CABRAL): AND WHERE DID YOU FIND THIS RECEIPT?

23 A. THIS WAS IN THE EMAIL THAT -- THE EMAIL HEADERS THAT WERE
24 RECOVERED OFF OF THE DEVICE IN THE COURSE OF THE FORENSIC SCAN.
25 SO THIS WAS CONTENT THAT WAS SPECIFICALLY TAKEN FROM AN EMAIL

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1 THAT WAS SENT FROM THE COMPANY THAT PROVIDES LIME PRO DIRECTLY
2 TO THE USER THAT INSTALLED -- OR PURCHASED AND THEN INSTALLED
3 THE PROGRAM ONTO THE LAPTOP.

4 Q. DO YOU SEE, ON THE RECEIPT OR ON THE ORDER CONFIRMATION,
5 AN INDICATION OF WHO IT IS THAT PURCHASED THE SOFTWARE?

6 A. YES.

7 Q. WHO WAS THAT?

8 A. BILL WALSH.

9 Q. DOES IT SHOW AN EMAIL ADDRESS?

10 A. YES, IT DOES.

11 Q. AND IS THERE SOMETHING SIGNIFICANT ABOUT THE EMAIL
12 ADDRESS?

13 A. YES. THE EMAIL ADDRESS, THE WFWIV IS INDICATIVE OF
14 WILLIAM FRANCIS WALSH THE IV.

15 Q. AND AN ADDRESS IN VISTA, CALIFORNIA?

16 A. YES. IT LISTS THE SOFTWARE WAS REGISTERED TO MR. WALSH'S
17 ADDRESS AT IN VISTA, CALIFORNIA.

18 Q. THAT IS THE RESIDENCE OF THE DEFENDANT?

19 A. CORRECT.

20 Q. DOES IT INDICATE WHAT SERVICE WAS PURCHASED?

21 A. YES, IT DOES.

22 Q. AND WHAT WAS THAT?

23 A. IT INDICATES THAT TWO YEARS OF ACCESS WITH UNLIMITED -- OR
24 DOWNLOAD TO UNLIMITED MOVIES WAS PURCHASED FOR THE TOTAL OF
25 53.93.

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1 Q. AND AS I'M LOOKING AT THIS EMAIL, THERE IS THE LETTERS
2 HTTPS AND THEN THERE IS SOME UNDERLINES THERE. WHAT IS THAT?

3 A. THE EXAM WAS ALSO ABLE TO PULL OUT THIS HYPERLINKED
4 INFORMATION HERE. THIS WAS LINKED INSIDE OF THE EMAIL THAT WAS
5 SENT TO THE USER ONCE THE PROGRAM WAS SUCCESSFULLY PURCHASED.
6 AND CLICKING ON THIS ENABLES THE USER TO SEE THE SPECIFIC
7 INVOICE THAT WAS GENERATED BY LIME PRO FOR THE VERIFIED
8 PURCHASE OF THIS PROGRAM FOR USE.

9 Q. AND SO WHEN YOU CLICKED THAT LINK YOU FOUND ANOTHER
10 DOCUMENT?

11 A. CORRECT.

12 Q. WOULD YOU PLEASE LOOK AT EXHIBIT 23? AND YOU RECOGNIZE
13 THAT DOCUMENT?

14 A. YES, I DO.

15 (EXHIBIT NO. 23 MARKED FOR IDENTIFICATION)

16 Q. (BY MS. CABRAL): IS THAT THE RECEIPT THAT WAS THE
17 HYPERLINK?

18 A. CORRECT.

19 MS. CABRAL: THE GOVERNMENT MOVES TO ADMIT
20 EXHIBIT 23.

21 MR. CARLOS: NO OBJECTION.

22 THE COURT: IT'S RECEIVED AND MAY BE PUBLISHED.

23 (EXHIBIT NO. 23 RECEIVED INTO EVIDENCE)

24 Q. (BY MS. CABRAL): AND AGAIN, DOES THIS INDICATE THE
25 PURCHASER?

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1 A. YES, IT DOES.

2 Q. AND WHAT WAS PURCHASED, CORRECT?

3 A. YES.

4 Q. WAS THERE ANOTHER EMAIL THAT YOU FOUND ON THE COMPUTER
5 RELATING TO THE PURCHASE OF LIMEWIRE SOFTWARE?

6 A. THE EMAIL THAT I FORWARDED, THAT WAS RELATED TO THE
7 PURCHASE OF LIMEWIRE OR LIME PRO, WAS THE WFWIV@HOTMAIL.COM,
8 WHICH WAS THE EMAIL ASSOCIATED WITH THE PURCHASE AND
9 REGISTRATION.

10 Q. I'M SORRY. MY QUESTION WASN'T VERY GOOD.

11 WAS THERE AN EMAIL FOLLOW-UP TO THAT ONE THAT WE JUST
12 LOOKED AT, THAT PROVIDED THE USER INSTRUCTIONS ON HOW TO
13 DOWNLOAD?

14 A. YES.

15 Q. IF YOU'D LOOK AT EXHIBIT 24, PLEASE. DO YOU RECOGNIZE
16 THAT?

17 A. YES, I DO.

18 (EXHIBIT NO. 24 MARKED FOR IDENTIFICATION)

19 Q. (BY MS. CABRAL): IS THAT THE EMAIL THAT YOU ALSO SAW?

20 A. YES.

21 MS. CABRAL: THE GOVERNMENT MOVES TO ADMIT
22 EXHIBIT 24.

23 MR. CARLOS: NO OBJECTION, YOUR HONOR.

24 THE COURT: RECEIVED, AND IT MAY BE PUBLISHED.

25 (EXHIBIT NO. 24 RECEIVED INTO EVIDENCE)

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1 Q. (BY MS. CABRAL): ARE INSTRUCTIONS GIVEN FOR HOW TO
2 INSTALL THE SOFTWARE?

3 A. YES.

4 Q. WHAT'S THE FIRST THING THAT IT INDICATES TO DO?

5 A. WHAT THIS EMAIL DOES IS IT EXPLAINS TO THE USER THE
6 PURPOSE OF STEPS TO FOLLOW TO INSTALL THE PROGRAM ON THEIR
7 COMPUTER SYSTEM. IT PROVIDES THEM WITH AN ACTIVATION CODE. SO
8 THE STEP-BY-STEP INSTRUCTIONS THAT IT GIVES IS IT TELLS THE
9 USER TO OPEN THE SOFTWARE UP ON THE DEVICE, TO ENTER THE
10 CONTROL PANEL FOR THE SETTINGS OF THE PROGRAM. AND AT THAT
11 POINT YOU WOULD MANUALLY ENTER THE ACTIVATION CODE THAT WAS
12 PROVIDED TO THE USER BY THE COMPANY AT THE CONCLUSION OF THE
13 VERIFIED PURCHASE.

14 Q. AND IS THERE AN ACTIVATION CODE INDICATED HERE?

15 A. YES.

16 Q. IS THAT THE NUMBER THERE AT THE BOTTOM?

17 A. CORRECT.

18 Q. AND DID YOU FIND EVIDENCE INDICATING THAT LIME -- THIS
19 SOFTWARE, LIME PRO, WAS ACTUALLY DOWNLOADED ONTO THE COMPUTER?

20 A. YES.

21 Q. AND WHERE WAS THAT?

22 A. THIS WAS DOWNLOADED TO THE DESKTOP OF THE COMPUTER. SO IT
23 WOULD HAVE BEEN ON THE HOME SCREEN OF THE DEVICE, WHICH WOULD
24 HAVE POPULATED AN ICON ON THE HOME SCREEN OF THE DEVICE --
25 AGAIN, FOR PURPOSES OF NAVIGATING TO THE PROGRAM, TO RUN IT

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1 FROM THE DEVICE.

2 Q. CAN I ASK YOU TO LOOK AT, PLEASE, EXHIBIT 25? WHAT IS
3 THAT?

4 A. THIS IS A SCREEN SHOT FROM THE REGISTRY VIEW OF THE
5 COMPUTER.

6 (EXHIBIT NO. 25 MARKED FOR IDENTIFICATION)

7 Q. (BY MS. CABRAL): WHAT'S THE REGISTRY?

8 A. EVERY COMPUTER WILL HAVE A REGISTRY. THE REGISTRY IS A
9 CENTRALIZED DATABASE OF LOGS AND INFORMATION THAT IS GATHERED
10 AND TABULATED BY A COMPUTER SYSTEM DURING THE NORMAL COURSE OF
11 ITS OPERATIONS.

12 AS PROGRAMS ARE MANIPULATED, AS THINGS ARE DONE TO
13 THE SYSTEM AS THE USER INTERFACES WITH THE SYSTEM, THE
14 REGISTRY, WHICH IS THE CENTRAL HUB OF THE COMPUTER, IS
15 CONSTANTLY NOTATING DETAILS AND PUTTING LOGGED INFORMATION AND
16 SPECIFICS INTO VARIOUS FILES WITHIN THAT STRUCTURE.

17 THE REGISTRY ITSELF IS THEN BROKEN UP INTO DIFFERENT
18 SUBSETS, WHICH ARE CALLED HIVES. AND WITHIN THOSE HIVES --
19 IT'S APPROPRIATELY NAMED. IF YOU WOULD THINK OF, YOU KNOW,
20 BEES WITHIN A HIVE, ALL THE BEES WITHIN THAT HIVE ARE THE
21 INDIVIDUAL FILES AND LOGS.

22 SO EACH ONE OF THOSE HIVES POTENTIALLY HAS THOUSANDS
23 TO HUNDRED OF THOUSANDS OF BITS OF DATA THAT ARE ALSO
24 CALCULATED AND STORED WITHIN THAT REGISTRY HIVE. SO HOPEFULLY
25 THAT MAKES SENSE.

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1 **Q.** THAT'S A LOT OF INFORMATION FOR ME THERE. SORRY.

2 **A.** SO THIS VIEW, IN PARTICULAR, IS OF TAKING THE FORENSIC
3 IMAGE. SO TAKING THE COPY THAT WAS MADE OF THE HARD DRIVE AND
4 THEN PUTTING IT INTO A TOOL WHICH THEN EXPANDS THE REGISTRY.

5 SO IT SHOWS YOU THE REGISTRY OF THAT DEVICE AND THEN
6 IT FURTHER BREAKS IT DOWN INTO THE VARIOUS HIVES, WHICH YOU CAN
7 THEN, AS AN EXAMINER, GO INTO EACH OF THE INDIVIDUAL HIVES AND
8 LOCATE AND VIEW DATA THAT WAS LOGGED BY THE SYSTEM, THAT IS
9 RELEVANT TO THAT SPECIFIC FILE TREE.

10 **Q.** SO EXHIBIT 25, YOU RECOGNIZE THAT?

11 **A.** YES.

12 **MS. CABRAL:** THE GOVERNMENT MOVES TO ADMIT
13 EXHIBIT 25.

14 **MR. CARLOS:** NO OBJECTION.

15 **THE COURT:** OKAY. IT'S RECEIVED AND MAY BE SHOWN.

16 (EXHIBIT NO. 25 RECEIVED INTO EVIDENCE)

17 **Q. (BY MS. CABRAL):** WE TALKED ABOUT ON THAT LAST EMAIL THERE
18 WAS A REGISTRATION CODE, AN ACTIVATION CODE. DO YOU SEE THAT
19 IN THE SETUP HERE?

20 **A.** YES, I DO.

21 **Q.** WHERE WAS THAT?

22 **A.** IT'S REFLECTED HERE, NEAR THE CENTER OF THE REGISTRY TREE,
23 WHERE IT SHOWS THE REGISTER CODE THAT WAS PROVIDED TO THE USER
24 OF THIS COMPUTER. THAT CODE WAS THEN ENTERED INTO THE COMPUTER
25 FOR THE PURPOSES OF SUCCESSFULLY INSTALLING THE SOFTWARE ONTO

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1 THE LAPTOP.

2 AND AS A RESULT, WHEN THAT INFORMATION WAS ENTERED
3 INTO THE COMPUTER, IT'S REFLECTED IN THE REGISTRY AS THE
4 COMPUTER HAVING CAPTURED THAT DATA AS IT WAS INPUT BY THE USER.

5 Q. AND DID YOU CONFIRM THAT THAT IS THE SAME ACTIVATION CODE
6 THAT WAS ON THE EMAIL WE SAW EARLIER?

7 A. YES.

8 Q. AND WHAT'S THE REGISTERED NAME FOR THIS INSTALLATION?

9 A. THE REGISTERED NAME IS BILL WALSH.

10 Q. AND WHAT'S THE REGISTERED EMAIL?

11 A. IT'S THE WFWIV@HOTMAIL.COM.

12 Q. A LITTLE BIT FURTHER UP ON THE SCREEN THERE IS AN
13 INDICATION THAT SAYS SYS DESKTOP. WHAT DOES THAT INDICATE?

14 A. THAT INDICATES WHERE THE PROGRAM ITSELF WAS STORED. SO
15 THIS WOULD SHOW THAT THE -- IT WAS STORED ON THE SYSTEM'S
16 DESKTOP. AND THAT ICON WOULD HAVE BEEN PRESENT IF STORED ON
17 THE DESKTOP.

18 AND THEN IT GIVES YOU THE FILE PATHWAY FOR WHERE IT
19 WAS SPECIFICALLY LOCATED FOR THE USER WILLIAM ON THE DESKTOP.
20 AND THEN IT WAS CODED AS "MY SHARED FOLDER," WHICH WOULD HAVE
21 BEEN A SHARED CONTAINER THAT PUT THE FILES IN TO MAKE IT
22 AVAILABLE FOR DISTRIBUTION.

23 Q. AND AGAIN, JUST BREAKING IT DOWN FOR ME, THE C:\, WHAT
24 DOES THAT INDICATE?

25 A. THE C:\ IS THE FILE DIRECTORY -- OR THE DIRECTORY WHERE

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1 THAT SPECIFIC FILE WOULD BE STORED. THE C --- WHENEVER YOU SEE
2 THE C, IT'S REFERRED TO AS YOUR C DRIVE ON THE COMPUTER. THE C
3 DRIVE IS THE NATIVE INTERNAL HARD DRIVE FOR THAT SPECIFIC
4 COMPUTER SYSTEM.

5 Q. AND THE USER WILLIAM?

6 A. THE USER WILLIAM WOULD BE THE IDENTIFIED COMPUTER USER
7 THAT SPECIFICALLY LOGGED ONTO THE COMPUTER AND USING ITS
8 INTERFACE AT THAT TIME WHEN THAT INSTALLATION WAS DONE.

9 Q. DOES THIS ALSO INDICATE WHERE THE ICON THAT YOU TALKED
10 ABOUT EARLIER WOULD HAVE BEEN INSTALLED?

11 A. CORRECT.

12 Q. WHERE IS THAT?

13 A. THAT WOULD HAVE BEEN ON THE DESKTOP.

14 Q. SO IF IT'S ON THE DESKTOP, WOULD SOMEONE WHO OPENED AND
15 TURNED ON THE COMPUTER HAVE BEEN ABLE TO SEE THE ICON?

16 A. YES.

17 Q. DOWN TOWARDS THE VERY BOTTOM IT SAYS "LIBRARY DOT SHOW
18 DETAILS." WHAT DOES THAT INDICATE?

19 A. THE LIBRARY SHOW DETAILS, THIS IS THE ACTUAL VISUAL
20 LIBRARY OF THE FILES THAT ARE CONTAINED ON THAT DEVICE WITHIN
21 THE LIME PRO SOFTWARE. SO THIS WOULD BE THE PHYSICAL LIBRARY
22 OF FILES THAT ARE AVAILABLE AND ACTIVELY STORED ON THE SYSTEM
23 AND ARE SUBSEQUENTLY MADE AVAILABLE FOR SHARE TO OTHER USERS OR
24 DISTRIBUTED TO OTHER USERS.

25 ON THE FAR RIGHT OF THE IMAGE, WHERE IT HAS THE ONE

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1 AND PARENTHESES, THAT IS WHERE IT'S INTERNALLY CODED WITHIN THE
2 REGISTRY. ONE FOR TRUE. SO IT'S EITHER A ZERO OR A ONE. IF
3 IT WERE A CODE OF ZERO, THAT WOULD MEAN THE VALUE WOULD BE
4 FALSE. SO IT WOULD MEAN THAT THE LIBRARY WOULD NOT BE VISIBLE
5 TO OTHER USERS.

6 SINCE IT'S CODED AS A ONE, IT WOULD MEAN THAT THE
7 LIBRARY CONTENTS ON THE DEVICE WOULD BE VISIBLE TO OTHER USERS
8 THAT WERE ON THE NETWORK THAT ACCESSED THE COMPUTER.

9 Q. ARE THERE FREE VERSIONS OF LIMEWIRE AND LIME PRO THAT ARE
10 AVAILABLE?

11 A. YES.

12 Q. IS IT FAIR TO SAY THERE ARE MORE BELLS AND WHISTLES
13 ASSOCIATED WITH THE PAID VERSIONS?

14 A. THAT IS WHAT THEY ARE ADVERTISED AS, YES.

15 Q. GOING BACK ON THIS REGISTRY FILE, WAS THE SOFTWARE
16 ACTUALLY INSTALLED ON THE MARCH 16, 2015 DATE THAT WAS ON THE
17 RECEIPT?

18 A. YES.

19 Q. DID YOU FIND DATA ON THE COMPUTER INDICATING HOW MANY
20 TIMES THE SOFTWARE WAS RUN AFTER ITS INSTALLATION?

21 A. YES.

22 Q. HOW MANY TIMES WAS IT RUN?

23 A. IT WAS RUN 55 TIMES, TOTAL, ON THE DEVICE.

24 Q. DID YOU FIND FILES OF CHILD PORNOGRAPHY IN THE ALLOCATED
25 SPACE ON THE COMPUTER?

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1 BREAKS IT DOWN FURTHER TO SHOW THAT ADDITIONAL FOLDERS THAT
2 WERE SPECIFICALLY WITHIN THE 2004-11 ARE FURTHER IDENTIFIED BY
3 OTHER FOLDERS THAT HAVE SPECIFIC TITLES AS TO THEIR SUPPOSED
4 CONTENT, AS WELL.

5 Q. SO A COUPLE OF THE NAMES THERE: PATTY. BASED UPON THE
6 INVESTIGATION, DO YOU KNOW SOMEONE NAMED PATTY?

7 A. I KNOW THAT THAT IS WHAT MR. WALSH'S WIFE IS REFERRED TO
8 AS WELL: PATTY, PATRICIA.

9 Q. THERE IS THE NAME "BILLY." DO YOU KNOW SOMEONE, BASED ON
10 THE INVESTIGATION, NAMED BILLY?

11 A. MY UNDERSTANDING IS THAT MR. WALSH HAS A SON NAMED BILLY.

12 Q. WHAT ABOUT THE NAME NICK?

13 A. NICK, IN MY UNDERSTANDING, IS MR. WALSH'S STEPSON, WHO IS
14 THE BIOLOGICAL SON OF HIS WIFE, PATTY.

15 Q. I WANT TO NEXT TALK ABOUT EVIDENCE THAT YOU FOUND
16 INDICATING THAT FILES OF CHILD PORNOGRAPHY WERE VIEWED USING
17 THE LAPTOP.

18 A. YES.

19 Q. AND DID YOU FIND SUCH EVIDENCE?

20 A. YES, I DID.

21 Q. AND DID YOU FIND EVIDENCE SPECIFICALLY THAT FILES OF CHILD
22 PORNOGRAPHY HAD BEEN VIEWED OFF OF THE HARD DRIVE OF THE
23 COMPUTER?

24 A. YES.

25 Q. AGAIN, WHAT DOES THAT MEAN? IS THAT THE C DRIVE YOU

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1 TALKED ABOUT EARLIER?

2 A. CORRECT. THAT WOULD BE THE C DRIVE.

3 Q. IF YOU WOULD TAKE A LOOK, PLEASE, AT EXHIBIT 30. IS THAT
4 A REPORT -- I'M SORRY. WHAT IS THAT?

5 A. THIS IS A SCREEN SHOT FROM THE EXAMINATION SPECIFICALLY
6 LISTING ONE OF THE JUMP LISTS, THE JUMP LIST SHORTCUT FEATURES.
7 THIS INDICATES THE FILE NAME AND PATHWAY, AS WELL AS WHAT
8 APPLICATION WAS USED SPECIFICALLY TO ACCESS OR MANIPULATE THAT
9 FILE.

10 MS. CABRAL: THE GOVERNMENT MOVES TO ADMIT
11 EXHIBIT 30, YOUR HONOR.

12 MR. CARLOS: NO OBJECTION, YOUR HONOR.

13 THE COURT: RECEIVED. IT MAY BE PUBLISHED.

14 (EXHIBIT NO. 30 MARKED FOR IDENTIFICATION)

15 (EXHIBIT NO. 30 RECEIVED INTO EVIDENCE)

16 Q. (BY MS. CABRAL): THE FAR LEFT COLUMN APP ID, YOU TALKED
17 EARLIER ABOUT APPLICATIONS HAVING SPECIFIC IDENTIFIERS; IS THAT
18 CORRECT?

19 A. CORRECT.

20 Q. AND SO AS WE LOOK, THE IDENTIFIERS, ALMOST ALL OF THEM,
21 HAVE THE SAME APP ID?

22 A. CORRECT.

23 Q. AND IS THAT THE F-A -- I CAN'T READ THAT. SORRY. IN THAT
24 FIRST COLUMN, WHAT APPLICATION IS THAT?

25 A. THE AP ID FAEF, BLAH, BLAH, BLAH IS INDICATIVE OF A VLC

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1 MEDIA PLAYER.

2 Q. ARE YOU FAMILIAR WITH THE VLC MEDIA PLAYER?

3 A. I AM.

4 Q. IS THAT AN APPLICATION THAT COMES NATIVELY INSTALLED ON
5 WINDOW COMPUTERS?

6 A. NO.

7 Q. SO IS IT FAIR TO SAY EVERY TIME YOU SEE THE AP ID THAT
8 MEANS A VLC MEDIA PLAYER WAS USED?

9 A. CORRECT. THAT WOULD INDICATE THAT THAT FILE WAS ACCESSED
10 SPECIFICALLY USING THE VLC MEDIA PLAYER.

11 Q. WHEN WE LOOKED AT THE LINKED PATH, THE C:\USER WILLIAM,
12 DOES THAT INDICATE THE LOCATION WHERE THE FILES WERE STORED?

13 A. YES.

14 Q. AND THEN DOES IT GO ON TO INDICATE THE SPECIFIC
15 APPLICATION?

16 A. CORRECT.

17 Q. AND WHERE WERE THESE PARTICULAR FILES STORED?

18 A. THEY WERE STORED IN THE LIME PRO APPLICATIONS, MY SHARED
19 FOLDER, ON THE LAPTOP COMPUTER.

20 Q. AND UNDER WHAT USER NAME?

21 A. UNDER THE USER WILLIAM.

22 Q. OKAY. IS THERE A DATE AND TIME INDICATED ON THOSE?

23 A. YES, THERE ARE.

24 Q. AND AGAIN, THE TIME WOULD BE CONVERTED TO LOCAL TIME MINUS
25 SEVEN HOURS?

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1 **A.** THAT'S CORRECT.

2 **Q.** AND WHEN WE SAY THAT THE APPLICATION IS VLC MEDIA PLAYER,
3 IS THAT AN ACRONYM?

4 **A.** YES.

5 **Q.** WHAT IS IT USED FOR?

6 **A.** VLC MEDIA PLAYER IS USED TO VIEW MEDIA, SPECIFICALLY,
7 EITHER PHOTOGRAPHS OR VIDEO. IT'S AN EXTERNAL PROGRAM THAT YOU
8 WOULD DOWNLOAD ONTO YOUR COMPUTER FOR THE PURPOSE OF PLAYING OR
9 VIEWING VIDEO FILES FOR MEDIA.

10 **Q.** AND TOWARDS THE BOTTOM THERE IS AN ENTRY FOR APRIL 16,
11 2015; IS THAT CORRECT?

12 **A.** CORRECT.

13 **Q.** AND ON WHAT TIME -- WHAT TIME OF THE DAY WERE YOU
14 CONDUCTING YOUR INVESTIGATION ON THE PEER-TO-PEER NETWORK, IF
15 YOU RECALL, ON APRIL 16TH AND 17TH?

16 **A.** AS I RECALL, IT WAS THE AFTERNOON.

17 **Q.** OKAY. DOES IT SHOW THAT SOME VIDEOS WERE VIEWED ALSO ON
18 THE APRIL 16TH DATE?

19 **A.** CORRECT.

20 **Q.** AND DO ANY OF THOSE NAMES JUMP OUT AT YOU?

21 **A.** YES. MOST OF THESE NAMES I'M FAMILIAR WITH. AGAIN,
22 WORKING IN THIS FIELD AND BEING AROUND DIFFERENT FILES AND IN
23 INVESTIGATING DIFFERENT FILE NAMES, THERE ARE A NUMBER OF THESE
24 FILES THAT DEFINITELY JUMP OUT TO ME AS CONTENT THAT I AM AWARE
25 OF BEING CHILD PORNOGRAPHY.

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1 Q. YOU RECOGNIZE SOME OF THE TITLES AS INDICATIVE OF CHILD
2 PORNOGRAPHY; IS THAT CORRECT?

3 A. THAT'S CORRECT.

4 Q. WAS THERE ALSO EVIDENCE INDICATING THAT THIS LAPTOP WAS
5 USED TO VIEW CHILD PORNOGRAPHY FROM THE EXTERNAL HARD DRIVE,
6 THAT "I" TRAINING FOLDER?

7 A. YES.

8 Q. I AM GOING TO ASK YOU TO LOOK AT EXHIBIT 31, PLEASE. AND
9 DO YOU RECOGNIZE THAT?

10 A. YES.

11 (EXHIBIT NO. 31 MARKED FOR IDENTIFICATION)

12 Q. (BY MS. CABRAL): IS THAT A REPORT OF SOME OF THESE FILES
13 THAT WE TALKED ABOUT EARLIER?

14 A. YES.

15 **MS. CABRAL:** THE GOVERNMENT MOVES TO ADMIT
16 EXHIBIT 31.

17 **THE COURT:** ANY OBJECTION?

18 **MR. CARLOS:** NO, YOUR HONOR.

19 **THE COURT:** OKAY. RECEIVED.

20 (EXHIBIT NO. 31 RECEIVED INTO EVIDENCE)

21 **THE COURT:** AND YOU MAY PUBLISH IT.

22 Q. (BY MS. CABRAL): AND SO AT THE TOP WE SEE THE AP ID; IS
23 THAT CORRECT?

24 A. CORRECT.

25 Q. AND WHAT IS THE AP ID, AGAIN?

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1 A. THIS AP ID IS INDICATIVE OF VLC MEDIA PLAYER BEING USED TO
2 ACCESS THIS FILE.

3 Q. SO, AGAIN, THE SAME MEDIA PLAYER THAT WAS USED ON THE
4 EARLIER EXHIBIT WE SAW?

5 A. YES.

6 Q. AND WHAT WAS THE FILE NAME OF THE FILE THAT WAS USED HERE?

7 A. THE FILE NAME THAT WAS VIEWED ON THE DEVICE, ON VLC MEDIA
8 PLAYER WAS THE 2010 PTHC BABY SHIVID FRIFAM BABYJ LITTLE-BIT
9 VIDEO.

10 Q. OKAY. AND THE VOLUME NAME MY PASSPORT, WAS THIS VIEWED
11 OFF OF THE EXTERNAL HARD DRIVE?

12 A. THAT'S CORRECT. SO THIS IS INDICATIVE THAT THE PASSPORT
13 DEVICE WOULD HAVE BEEN PLUGGED INTO THE LAPTOP COMPUTER AND
14 THEN THE FILE VIEWED ON THE LAPTOP COMPUTER FROM BEING STORED
15 ON THAT DEVICE.

16 Q. AND THE DATE AND TIME ON THIS ONE SHOWS UP AS MAY 8TH,
17 2015 AT 1:03 A.M. DOES THAT MEAN IT WOULD HAVE BEEN ON THE
18 7TH, IN THE EVENING?

19 A. CORRECT.

20 Q. AGAIN, THE 7TH IS THE DATE THAT FILES OF CHILD PORNOGRAPHY
21 WERE DISTRIBUTED FROM THE DEFENDANT'S HOME?

22 A. THAT'S CORRECT.

23 Q. AND THIS VIDEO, IN PARTICULAR, 2010, WAS THAT ONE OF THE
24 VIDEOS THAT WAS DISTRIBUTED TO YOU ON THAT DATE?

25 A. YES. THAT SAME DAY I WAS ABLE TO PHYSICALLY DOWNLOAD THIS

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1 VIDEO FROM THE LAPTOP COMPUTER.

2 Q. IN ADDITION TO THE DIGITAL ARTIFACTS THAT WE TALKED ABOUT
3 SHOWING THAT THE COMPUTER WAS USED TO VIEW CHILD PORNOGRAPHY,
4 TO DOWNLOAD CHILD PORNOGRAPHY, DID YOU FIND ANY DIGITAL
5 ARTIFACTS INDICATING -- DID YOU FIND ANY IMAGES OR VIDEOS OF
6 CHILD PORNOGRAPHY ON THE COMPUTER?

7 A. YES.

8 Q. AND LET ME ASK YOU FIRST, ARE YOU FAMILIAR WITH THE TERM
9 "THUMBS DB"?

10 A. YES.

11 Q. WHAT IS THUMBS DB?

12 A. THUMBS DB IS ALSO THE THUMBS DATABASE. THIS IS A FUNCTION
13 BROUGHT ABOUT TO THE SYSTEM BY MICROSOFT, AGAIN UNDER THE GUISE
14 OF THE USER EXPERIENCE.

15 ONCE MICROSOFT CAME TO REALIZE THAT COMPUTERS WERE
16 BEING USED FOR SUBSTANTIALLY MORE MEDIA USE AND MANIPULATION ON
17 THE DEVICES, THEY ENABLED MORE RECENT VERSIONS OF THEIR
18 OPERATING SYSTEM AND PUT IN WHAT IS CALLED THE THUMBS DATABASE.

19 NOW, WHAT THIS DOES IS IT ALLOWS THE USER TO -- WHEN
20 FILES ARE STORED ON THE DEVICE WITHIN A GIVEN FILE STRUCTURE,
21 IF THESE ARE VIDEOS OR PICTURE FILES, THE USER CAN THEN CREATE
22 THUMBNAILS FOR THOSE VIDEOS IN PLACE OF MAYBE THE SPECIFIC DATA
23 FOR THAT FILE.

24 SO RATHER THAN JUST SAYING THE NAME OF THE FILE AND
25 ASSOCIATED DATES, FILE SIZE, THE USER CAN MANUALLY CONFIGURE IT

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1 SO THAT IN PLACE OF THAT YOU WILL SEE A THUMBNAIL OF THE ACTUAL
2 PICTURE OR IMAGE, AND YOU CAN SET VARYING SIZES OF THAT.

3 Q. DOES THAT BASICALLY ALLOW YOU TO PREVIEW THE CONTENTS OF
4 THE MATERIAL?

5 A. CORRECT.

6 Q. IS THAT DONE AUTOMATICALLY IF SOMEONE GOES UP AND ASKS
7 THAT THEY LOOK AT THEIR FILES IN THUMBNAIL VIEWS?

8 A. YES. SO ONCE THE USER SELECTS TO VIEW THUMBNAILS OF
9 IMAGES OR VIDEOS THAT ARE STORED WITHIN A FILE STRUCTURE, ONCE
10 THAT THUMBNAIL IS GENERATED IN THE SYSTEM, IT'S THEN CAPTURED
11 AND MAINTAINED IN A SEPARATE DATABASE, WHICH IS CALLED THE
12 THUMBS OR THUMBNAIL DATABASE.

13 AND EVEN -- AND THIS IS MAINTAINED ON THE SYSTEM,
14 REGARDLESS. SO EVEN IF THE IMAGES THEMSELVES ARE SUBSEQUENTLY
15 DELETED OFF OF THE SYSTEM, IN MANY CASES THOSE SMALL THUMBNAILS
16 THAT WERE GENERATED BY THAT VIEW CONFIGURATION, THOSE
17 THUMBNAILS WILL STILL REMAIN ON THE SYSTEM, INTACT IN THAT
18 THUMBNAIL FORM, EVEN THOUGH THE FILE ITSELF HAS BEEN DELETED
19 OFF OF A SYSTEM.

20 Q. SO IF I HEARD YOU CORRECTLY, AN IMAGE COULD BE DELETED BUT
21 THE THUMBNAIL WOULD STILL EXIST?

22 A. CORRECT.

23 Q. IF AN IMAGE HAS NEVER BEEN POSSESSED ON THAT COMPUTER, CAN
24 IT EXIST IN THE THUMBS DATABASE?

25 A. NO. IN ORDER FOR AN IMAGE TO EXIST IN THE THUMBS

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1 DATABASE, THAT IMAGE, OR A PORTION OF THAT IMAGE IF IT WERE A
2 VIDEO, WOULD HAVE HAD TO HAVE NATIVELY EXISTED ON THAT SYSTEM
3 AT SOME POINT IN TIME.

4 Q. WHEN YOU REVIEWED THE THUMBS DATABASE ON THE LAPTOP ON THE
5 HARD DRIVE, DID YOU FIND IMAGES OF CHILD PORNOGRAPHY?

6 A. YES.

7 Q. HOW MANY?

8 A. THERE WERE 47 SPECIFIC THUMBNAIL IMAGES THAT WERE
9 RECOVERED FROM THE THUMBS DB ON THE LAPTOP COMPUTER, THAT WERE
10 INDICATIVE OF CHILD PORNOGRAPHY.

11 Q. DID YOU RECOGNIZE THOSE THUMBNAIL IMAGES BASED UPON THE
12 VIDEOS YOU HAD DOWNLOADED?

13 A. YES.

14 Q. DID YOU ALSO RECOVER A VIDEO OF CHILD PORNOGRAPHY FROM
15 UNALLOCATED SPACE ON THE COMPUTER?

16 A. YES.

17 Q. AND AGAIN, YOU TALKED EARLIER ABOUT THE FACT THAT IN ORDER
18 FOR SOMETHING TO GET INTO ALLOCATED SPACE IT MUST HAVE AT ONE
19 TIME RESIDED ON THE COMPUTER, CORRECT?

20 A. CORRECT.

21 Q. IT MUST HAVE BEEN POSSESSED ON THE COMPUTER; IS THAT
22 CORRECT?

23 A. THAT'S CORRECT.

24 THE COURT: ARE WE AT A GOOD TIME, PERHAPS?

25 MS. CABRAL: IT WOULD BE. I AM GETTING READY TO

1 MR. WALSH'S EMAIL, WFWIV@HOTMAIL.COM.

2 Q. IS THAT THE EMAIL THAT WAS USED ON THE LIMEWIRE PURCHASE?

3 A. CORRECT.

4 Q. WHAT WAS THE INSTALL DATE?

5 A. THIS WAS INSTALLED ON JUNE 30 OF 2014.

6 Q. WHAT IS THE COMPUTER NAME?

7 A. THE COMPUTER'S NAME IS BILLSLAPTOP.

8 Q. WERE YOU ABLE TO RUN A REPORT THAT SHOWED DIFFERENT USER
9 PROFILES FOR THE COMPUTER?

10 A. YES.

11 Q. AND WAS THERE VARIOUS USERS SET UP ON THE COMPUTER?

12 A. THERE WERE A TOTAL OF SIX USER ACCOUNTS, AS I RECALL. BUT
13 FIVE OF THOSE WERE BUILT-IN ACCOUNTS, MEANING THAT THEY COME
14 NATIVELY INSTALLED ON THE DEVICE, FOR THE PURPOSE OF DOING
15 REGULAR UPDATES AND MAINTENANCE TO THE SYSTEM ITSELF, NOT
16 NECESSARILY THE USER OF THE DEVICE AND THE INTERFACES.

17 Q. SO THERE WERE SEVERAL DIFFERENT ACCOUNTS. WERE ANY OF
18 THEM PASSWORD-PROTECTED?

19 A. YES.

20 Q. WHICH ONE?

21 A. THE MAIN USER ADMINISTRATIVE ACCOUNT. WILLIAM WAS THE
22 SOLE ACCOUNT THAT WAS SET UP ON THE DEVICE THAT WAS
23 PASSWORD-PROTECTED.

24 Q. WERE THERE ANY LOGINS MADE TO THE COMPUTER WITH
25 NON-PASSWORD-PROTECTED USER IDS?

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1 **A.** NO.

2 **Q.** IN ADDITION TO FINDING OUT WHO THE COMPUTER BELONGED TO,
3 DID YOU CONDUCT AN INVESTIGATION TO DETERMINE WHO HAD USED THE
4 COMPUTER?

5 **A.** YES.

6 **Q.** WHAT SORTS OF THINGS DO YOU LOOK FOR WHEN YOU'RE DOING
7 THAT INVESTIGATION?

8 **A.** I LOOK FOR A VARIETY OF THINGS, FROM EMAILS THAT ARE
9 ACCESSED ON THE DEVICE, WEBSITES, CONTENT THAT IS SEARCHED FOR.
10 TAX INFORMATION IS A BIG AREA OF INTEREST IN LOOKING AT A
11 COMPUTER FORENSICALLY. THAT IS USUALLY INDICATIVE OF A USER.

12 **Q.** NOW, THE DEFENDANT WAS HOME WHEN THE SEARCH WARRANT WAS
13 EXECUTED. WERE YOU LOOKING ONLY FOR INFORMATION ABOUT HIS USE
14 OF THE COMPUTER?

15 **A.** NO.

16 **Q.** WERE YOU LOOKING FOR INFORMATION ABOUT ANYONE'S USE OF THE
17 COMPUTER?

18 **A.** YES.

19 **Q.** DID YOU FIND THAT A FACEBOOK ACCOUNT HAD BEEN ACCESSED
20 USING THE COMPUTER?

21 **A.** YES.

22 **Q.** WHOSE FACEBOOK ACCOUNT WAS THAT?

23 **A.** MR. WALSH'S.

24 **Q.** DID YOU FIND THAT A PASSWORD HAD BEEN -- A FACEBOOK
25 PASSWORD HAD BEEN CHANGED, USING THE COMPUTER?

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1 **A.** YES.

2 **Q.** WHEN WAS THAT DONE?

3 **A.** THAT WAS DONE ON MAY 6TH OF 2015.

4 **Q.** DID YOU FIND EVIDENCE INDICATING THAT ANY OTHER FACEBOOK
5 ACCOUNT HAD BEEN ACCESSED ON THAT COMPUTER?

6 **A.** NONE.

7 **Q.** DID YOU FIND EMAIL ACCOUNTS ON THE COMPUTER?

8 **A.** YES, SEVERAL.

9 **Q.** DID YOU FIND ACCOUNTS WITH NAMES, ALL OF WHICH WERE A
10 VARIATION ON THE DEFENDANT'S NAME?

11 **A.** YES.

12 **Q.** HOW MANY DIFFERENT ACCOUNTS? FIVE?

13 **A.** YES, FIVE TOTAL ACCOUNTS.

14 **Q.** AND DID YOU FIND ARTIFACTS INDICATING ANY OTHER EMAIL HAD
15 BEEN USED ON THE COMPUTER?

16 **A.** NO. THERE WAS -- THERE WAS A RESPONSE. THERE WAS AN
17 EMAIL THAT WAS SENT TO PATRICIA CHISHOLM, AS I RECALL. BUT IT
18 WAS SENT TO HER -- SENT TO HER ACCOUNT THAT WAS ON THE DEVICE,
19 BUT THERE WASN'T ANY OTHER FURTHER MANIPULATION OF THAT ACCOUNT
20 OR THAT EMAIL THAT I SAW ON THE DEVICE.

21 **Q.** SO ASIDE FROM THAT ONE EMAIL WITH REGARD TO THE
22 DEFENDANT'S WIFE, YOU DIDN'T SEE ANY INDICATION OF ANY OTHER
23 EMAIL THAT HAD BEEN USED ON THE ACCOUNT -- ON THE COMPUTER,
24 CORRECT?

25 **A.** CORRECT.

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1 Q. DID YOU FIND AN INDICATION THAT TURBO TAX HAD BEEN USED ON
2 THE COMPUTER?

3 A. YES.

4 Q. AND WAS IT DOWNLOADED ON THE COMPUTER, OR HOW WAS IT USED?

5 A. IT WAS ACCESSED AND THEN DOWNLOADED ON THE COMPUTER. IT
6 WAS PURCHASED WITH AN AMERICAN EXPRESS CARD, AND THEN AN EMAIL
7 WAS SUBSEQUENTLY SENT.

8 Q. OKAY. WHEN WAS THAT DONE?

9 A. THAT WAS DONE ON APRIL 10TH, 2015.

10 Q. DO YOU REMEMBER ABOUT WHAT TIME?

11 A. IT WAS DONE RIGHT AROUND 1:00 IN THE MORNING. MIDNIGHT TO
12 1:00 IN THE MORNING ON THAT DAY.

13 Q. AND THAT'S APRIL 10TH OF 2015?

14 A. CORRECT.

15 Q. ARE YOU AWARE IF THERE WERE ANY ARES DOWNLOADS THAT
16 OCCURRED DURING THAT TIME PERIOD?

17 A. YES.

18 Q. DID YOU FIND ARTIFACTS THAT ANYONE HAD LOGGED INTO ANY
19 OTHER TYPES OF SOCIAL MEDIA ACCOUNTS?

20 A. NO.

21 Q. LET ME CLARIFY. THERE HAD BEEN LOGINS TO LINKEDIN?

22 A. CORRECT.

23 Q. UNDER WHOSE ACCOUNT?

24 A. UNDER MR. WALSH.

25 Q. WAS THERE ANY LOGIN TO TWITTER?

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1 **A.** YES.

2 **Q.** UNDER WHOSE ACCOUNT?

3 **A.** MR. WALSH.

4 **Q.** WERE THERE ANY LOGINS TO INSTAGRAM?

5 **A.** YES.

6 **Q.** UNDER WHOSE ACCOUNT?

7 **A.** UNDER MR. WALSH.

8 **Q.** DID YOU FIND ANYONE ELSE LOGGED INTO LINKEDIN?

9 **A.** NO.

10 **Q.** OR TWITTER?

11 **A.** NO.

12 **Q.** OR INSTAGRAM?

13 **A.** NO.

14 **Q.** OR ANY OTHER SOCIAL MEDIA ACCOUNT?

15 **A.** NO.

16 **Q.** DID YOU FIND EVIDENCE SHOWING THAT DOCUMENTS HAD BEEN
17 ACCESSED ON THE COMPUTER AT OR AROUND THE TIME THE VIDEOS WERE
18 DISTRIBUTED TO YOU?

19 **A.** NO. NO OTHER USER.

20 **Q.** OKAY. WAS THERE ANY INDICATION THAT THE DEFENDANT HAD
21 DRAFTED AND WORKED ON, LET'S SAY, LETTERS REGARDING EMPLOYMENT?

22 **A.** YES.

23 **Q.** AND WAS THAT DONE AROUND THE TIME OF THE DOWNLOADS?

24 **A.** YES, IT WAS AROUND THE SAME TIME FRAME.

25 **Q.** WERE THERE ALSO DOCUMENTS CONCERNING MEDICAL ISSUES ON THE

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1 COMPUTER?

2 **A.** YES.

3 **Q.** AND WHOSE MEDICAL ISSUES?

4 **A.** MR. WALSH.

5 **Q.** DID YOU FIND ANY DOCUMENTS OF THAT NATURE -- PERSONAL
6 DOCUMENTS REGARDING ANYONE ELSE ON THAT COMPUTER?

7 **A.** NO.

8 **Q.** OTHER THAN THE LIMEWIRE -- THE LIME PRO, WAS THERE ANY
9 OTHER TYPE OF PEER-TO-PEER SOFTWARE INSTALLED ON THE COMPUTER?

10 **A.** NO. OH, THERE WAS -- PEER-TO-PEER SOFTWARE SPECIFICALLY?
11 NO. THERE WAS BITTORRENT, WHICH IS THE -- IT'S TYPICALLY
12 INCLUDED IN WITH PEER-TO-PEER, BUT IT'S MORE OF A FILE-SHARING
13 PROTOCOL, NOT NECESSARILY A PEER-TO-PEER. BUT THAT WAS
14 PRESENT.

15 **Q.** SO IN ADDITION TO THE LIME PRO, YOU FOUND BITTORRENT ON
16 THE COMPUTER?

17 **A.** CORRECT.

18 **Q.** AND YOU MENTIONED THAT EARLIER AS A TYPE OF PEER-TO-PEER;
19 IS THAT CORRECT?

20 **A.** CORRECT.

21 **Q.** DID YOU FIND EVIDENCE ON THE LAPTOP SHOWING THAT SOMEONE
22 HAD ACTUALLY PURCHASED THIS BITTORRENT?

23 **A.** YES.

24 **Q.** I ASK YOU TO QUICKLY LOOK AT EXHIBIT 33 IN FRONT OF YOU
25 THERE. DO YOU RECOGNIZE THAT?

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1 **A.** YES.

2 (EXHIBIT NO. 33 MARKED FOR IDENTIFICATION)

3 **Q.** (BY MS. CABRAL): WHAT IS IT?

4 **A.** THIS IS A VERIFICATION ORDER OR A CONFIRMATION OF
5 BITTORRENT HAVING BEEN ORDERED AND PURCHASED FOR INSTALLATION
6 ONTO THE SYSTEM.

7 **MS. CABRAL:** THE GOVERNMENT MOVES TO ADMIT
8 EXHIBIT 33.

9 **THE COURT:** ANY OBJECTION?

10 **MR. CARLOS:** NO, YOUR HONOR.

11 (EXHIBIT NO. 33 RECEIVED INTO EVIDENCE)

12 **Q.** (BY MS. CABRAL): WHO WAS THE PURCHASER OF THAT?

13 **THE COURT:** IT'S RECEIVED, AND YOU CAN PUBLISH.
14 GO AHEAD.

15 **MS. CABRAL:** THANK YOU, YOUR HONOR. I'M GETTING
16 AHEAD OF MYSELF.

17 **Q.** (BY MS. CABRAL): WHO WAS THE PURCHASER?

18 **A.** IT WAS BILL WALSH.

19 **Q.** DID YOU FIND EVIDENCE THAT BITTORRENT WAS ACTUALLY
20 INSTALLED ON THE COMPUTER?

21 **A.** YES.

22 **Q.** I'M GOING TO ASK US TO BACK UP TO EXHIBIT 25. ON THE FAR
23 LEFT SIDE, DO YOU SEE THAT BITTORRENT WAS INSTALLED?

24 **A.** YES.

25 **Q.** AND WAS ARES INSTALLED?

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1 A. YES.

2 Q. AND LIME PRO?

3 A. YES.

4 Q. AS YOU WERE LOOKING AT THE COMPUTER AT THE BITTORRENT, DID
5 YOU FIND ANY FILES OF INTEREST THAT HAD BEEN DOWNLOADED USING
6 BITTORRENT?

7 | A. YES.

8 Q. WHAT FILE?

9 A. AMERICAN SNIPER, PARTICULARLY.

10 Q. WHEN WAS THAT DOWNLOADED?

11 A. THAT WAS DOWNLOADED IN JANUARY OF 2015.

12 Q. AND WHY DID YOU FIND THAT TO BE INTERESTING?

13 A. BECAUSE AT THE TIME OF THE SEARCH WARRANT EXECUTION, WHEN
14 I SPOKE WITH MR. WALSH, HE HAD INDICATED TO ME THAT THE ONLY
15 TYPE OF DOWNLOAD THAT HE HAD DONE WHICH WOULD BE QUESTIONABLE
16 WAS A PIRATED COPY OF *AMERICAN SNIPER* THAT HE HAD DOWNLOADED.

17 Q. AFTER IT WAS DOWNLOADED, DID YOU FIND EVIDENCE INDICATING
18 THAT AMERICAN SNIPER HAD BEEN WATCHED -- HAD BEEN VIEWED ON THE
19 COMPUTER, USING THAT SAME VLC MEDIA PLAYER THAT WE TALKED ABOUT
20 EARLIER?

21 A. YES.

22 Q. IF I COULD ASK YOU TO LOOK AT EXHIBITS 35 AND 36. DO YOU
23 RECOGNIZE THOSE?

24 || A. YES.

25 (EXHIBIT NOS. 35 AND 36 MARKED FOR IDENTIFICATION)

1 **Q.** (BY MS. CABRAL): AND WHAT ARE THOSE, JUST GENERALLY?

2 **A.** THESE ARE, AGAIN, SCREEN SHOTS FROM THE DEVICE'S REGISTRY.
3 AND IT SHOWS THAT THE MOVIE *AMERICAN SNIPER*, WHICH WAS STORED
4 ON THE HARD DRIVE OF THE COMPUTER --

5 **Q.** I'M SORRY. JUST FOR IDENTIFICATION PURPOSES, YOU
6 RECOGNIZE THOSE?

7 **A.** YES.

8 **MS. CABRAL:** THE GOVERNMENT MOVES TO ADMIT
9 EXHIBITS 35 AND 36.

10 **MR. CARLOS:** NO OBJECTION.

11 **THE COURT:** BOTH WILL BE RECEIVED AND PUBLISHED AS
12 DESIRED.

13 **MS. CABRAL:** IF WE COULD PUBLISH. THANK YOU.

14 (EXHIBIT NOS. 35 AND 36 RECEIVED INTO EVIDENCE)

15 **Q.** (BY MS. CABRAL): YOU TALKED EARLIER ABOUT THE BITS AND
16 BYTES AND THE COMPUTER LANGUAGE?

17 **A.** CORRECT.

18 **Q.** IS THAT WHAT IS REFLECTED HERE?

19 **A.** ESSENTIALLY. THAT'S A HEX VIEW -- A HEXADECIMAL VIEW OF
20 THE REGISTRY, SHOWING THE CONTENTS. AND THEN IT'S CONVERTED
21 OVER TO WHERE YOU CAN SEE THE NATIVE TEXT ON THE RIGHT SIDE,
22 SHOWING WHAT THAT CONTENT IS.

23 **Q.** AND SO IN EXHIBIT 35, BASED ON THAT REPORT, DO YOU SEE
24 THAT *AMERICAN SNIPER* WAS VIEWED?

25 **A.** YES.

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1 Q. AND DO YOU SEE WHAT APPLICATION WAS USED TO VIEW IT?

2 A. VLC VIDEO PLAYER.

3 Q. AND WHERE DO YOU SEE THAT? IS THAT UP ON THE TOP?

4 A. YES. THAT'S THE BOX THAT IS INDICATED THERE, YES.

5 Q. AND THAT IS BECAUSE OF THE DATABASE NAME, THE APPLICATION

6 NAME?

7 A. CORRECT.

8 Q. LET ME ASK YOU THIS: IN THAT SAME BIT OF INFORMATION THAT

9 YOU WERE REVIEWING HERE IN EXHIBIT 35 WHERE YOU SEE *AMERICAN*

10 *SNIPER*, DID YOU FIND THAT ANOTHER VIDEO HAD BEEN WATCHED?

11 A. YES.

12 Q. USING THE VLC MEDIA PLAYER?

13 A. YES.

14 Q. AND WHAT VIDEO WAS THAT?

15 A. THAT WAS THE 2010 PTHC BABY SHIVID.

16 Q. AND WHERE DO YOU SEE THAT?

17 A. CORRECT. RIGHT THERE.

18 Q. IS THAT ON THE RIGHT-HAND SIDE?

19 A. YES.

20 Q. WHERE WAS THIS VIEWED OFF OF? WHAT PATHWAY?

21 A. THIS INDICATES THAT IT WAS VIEWED OFF OF THAT EXTERNAL

22 STORAGE DEVICE, WHICH WAS CONNECTED TO THE LAPTOP, AND THEN WAS

23 SUBSEQUENTLY VIEWED USING VLC MEDIA PLAYER.

24 Q. DID YOU FIND ANY INDICATION OF HOW MANY TIMES -- I THINK

25 YOU TESTIFIED EARLIER ABOUT THE NUMBER OF TIMES LIMEWIRE HAD

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1 BEEN RUN ON THE COMPUTER. DID YOU ALSO FIND AN INDICATION OF
2 HOW FREQUENTLY BITTORRENT WAS RUN?

3 **A.** YES.

4 **Q.** HOW OFTEN WAS THAT?

5 **A.** I BELIEVE IT WAS 61 TIMES.

6 **Q.** TAKING A LOOK AT EXHIBIT 37, DO YOU RECOGNIZE THAT AS A
7 REPORT?

8 **A.** YES.

9 (EXHIBIT NO. 37 MARKED FOR IDENTIFICATION)

10 **MS. CABRAL:** THE GOVERNMENT MOVES TO ADMIT 37.

11 **MR. CARLOS:** NO OBJECTION.

12 **THE COURT:** RECEIVED AND ADMITTED AND PUBLISHED.

13 (EXHIBIT NO. 37 RECEIVED INTO EVIDENCE)

14 **Q.** (BY **MS. CABRAL**): SO THAT SHOWS HOW MANY TIMES BOTH OF
15 THOSE WERE RUN?

16 **A.** THAT'S CORRECT.

17 **Q.** DID YOU FIND ANY OTHER ONLINE IDENTITIES HAD BEEN USED ON
18 THE LAPTOP BY THE DEFENDANT?

19 **A.** YES.

20 **Q.** AND WHY WERE YOU LOOKING TO SEE IF THERE WERE OTHER ONLINE
21 IDENTITIES?

22 **A.** AGAIN, FOR THE PURPOSE OF IDENTIFYING ANY USER ATTRIBUTION
23 ON THE DEVICE. IF THERE WERE OTHER USER NAMES OR IDENTITIES
24 THAT COULD BE ASCERTAINED, THEN I COULD FOLLOW UP ON THAT TO
25 SEE IF THOSE WERE ASSOCIATED WITH ANOTHER USER THAT WOULD HAVE

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1 WERE RUN ON THE DEVICE FOR THE PURPOSE OF ALTERING DATA.

2 (EXHIBIT NO. 38 MARKED FOR IDENTIFICATION)

3 MS. CABRAL: THE GOVERNMENT MOVES TO ADMIT EXHIBIT
4 38.

5 MR. CARLOS: NO OBJECTION.

6 THE COURT: IT IS RECEIVED AND MAY BE PUBLISHED.

7 (EXHIBIT NO. 38 RECEIVED INTO EVIDENCE)

8 Q. (BY MS. CABRAL): AND WHAT TYPES OF SOFTWARE WERE USED?

9 A. BROWSER CLEANER, A DRIVE DEFAGMENTER, PROGRAM
10 DEACTIVATORS, AS WELL AS REGISTRY CLEANERS AND REGISTRY
11 DEFAGMENTERS.

12 Q. WHEN WAS THAT DONE?

13 A. THESE WERE ALL DONE ON JUNE 17TH, 2015.

14 Q. AND ON THE FAR RIGHT COLUMN, ON WHAT DEVICE?

15 A. ON THE LAPTOP COMPUTER, ON BILLSLAPTOP.

16 Q. AND WHAT DOES THAT DO RUNNING CLEANING SOFTWARE? WHAT
17 DOES THAT DO?

18 A. WHAT THAT DOES IS -- THERE ARE VARYING LEVELS OF WHAT THAT
19 WILL AFFECT. BUT, ESSENTIALLY, WHAT IT DOES IS IT RESTRUCTURES
20 FILES WITHIN THE REGISTRY. HOWEVER, IT WOULD HAVE BEEN
21 CONTAINED AND CONFIGURED AT THAT DATE. ONCE THESE PROGRAMS ARE
22 THEN RUN THROUGH THE SYSTEM, IT ALTERS THE STRUCTURE AND
23 PRESENTATION OF SOME OF THAT REGISTRY MATERIAL THAT WOULD BE
24 INSIDE.

25 Q. BUT YOU WERE ABLE TO FIND SOME EVIDENCE, CORRECT?

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1 SPECIFICALLY USED TO LOG INTO THE WEBSITE RADIO REFERENCE.COM
2 FROM THE LAPTOP COMPUTER.

3 Q. AND WHEN WAS THAT?

4 A. I'M SORRY?

5 Q. WHEN WAS THAT DONE?

6 A. THAT WAS DONE ON MAY 7TH, 2015.

7 Q. AND THAT'S --

8 A. THIS SAYS 08 IN THE MORNING, WHICH, CONVERTED TO THE UTC,
9 IT WOULD HAVE BEEN ROUGHLY 1:00 A.M. ON MAY 7, 2015.

10 Q. YOU MENTIONED AT THE OUTSET THAT YOU DIDN'T ACTUALLY FIND
11 FILES OF CHILD PORNOGRAPHY ON THE COMPUTER ASIDE FROM IN THE
12 UNALLOCATED SPACE?

13 A. CORRECT. IN THE UNALLOCATED SPACE I FOUND FILES.

14 Q. YOU TALKED ABOUT THE FACT THIS IS A ONE-TERABYTE HARD
15 DRIVE. HOW MUCH IS ONE TERABYTE?

16 A. A COMPARISON OF A TERABYTE WOULD BE APPROXIMATELY
17 100 MILLION PAGES OF DOCUMENTS. SO IF YOU WERE TO TAKE
18 100 MILLION PRINTED PAGES, THAT WOULD BE THE ROUGH EQUIVALENT,
19 DATA-WISE, OF WHAT A TERABYTE CONSISTS OF.

20 Q. DID YOU FIND ANY INDICATION THAT SOFTWARE HAD BEEN USED TO
21 DELETE DATA FROM THE COMPUTER?

22 A. YES.

23 Q. AND I'M GOING TO ASK YOU TO LOOK AT EXHIBIT 38, PLEASE.
24 AND CAN YOU BRIEFLY IDENTIFY WHAT THIS IS?

25 A. YES. THIS IS AN ARTIFACT SHOWING WHERE VARIOUS PROGRAMS

1 WERE RUN ON THE DEVICE FOR THE PURPOSE OF ALTERING DATA.

2 (EXHIBIT NO. 38 MARKED FOR IDENTIFICATION)

3 **MS. CABRAL:** THE GOVERNMENT MOVES TO ADMIT EXHIBIT
4 38.

5 **MR. CARLOS:** NO OBJECTION.

6 **THE COURT:** IT IS RECEIVED AND MAY BE PUBLISHED.

7 (EXHIBIT NO. 38 RECEIVED INTO EVIDENCE)

8 **Q. (BY MS. CABRAL):** AND WHAT TYPES OF SOFTWARE WERE USED?

9 **A.** BROWSER CLEANER, A DRIVE DEFRAGMENTER, PROGRAM
10 DEACTIVATORS, AS WELL AS REGISTRY CLEANERS AND REGISTRY
11 DEFAGMENTERS.

12 **Q.** WHEN WAS THAT DONE?

13 **A.** THESE WERE ALL DONE ON JUNE 17TH, 2015.

14 **Q.** AND ON THE FAR RIGHT COLUMN, ON WHAT DEVICE?

15 **A.** ON THE LAPTOP COMPUTER, ON BILLSLAPTOP.

16 **Q.** AND WHAT DOES THAT DO RUNNING CLEANING SOFTWARE? WHAT
17 DOES THAT DO?

18 **A.** WHAT THAT DOES IS -- THERE ARE VARYING LEVELS OF WHAT THAT
19 WILL AFFECT. BUT, ESSENTIALLY, WHAT IT DOES IS IT RESTRUCTURES
20 FILES WITHIN THE REGISTRY. HOWEVER, IT WOULD HAVE BEEN
21 CONTAINED AND CONFIGURED AT THAT DATE. ONCE THESE PROGRAMS ARE
22 THEN RUN THROUGH THE SYSTEM, IT ALTERS THE STRUCTURE AND
23 PRESENTATION OF SOME OF THAT REGISTRY MATERIAL THAT WOULD BE
24 INSIDE.

25 **Q.** BUT YOU WERE ABLE TO FIND SOME EVIDENCE, CORRECT?

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1 **A.** YES.

2 **Q.** BUT DOES IT IMPACT THE TYPE OF EVIDENCE THAT REMAINS ON
3 THE COMPUTER?

4 **A.** IT POTENTIALLY COULD, YES.

5 **Q.** WAS THERE A MY PASSPORT DEVICE SEIZED AT THE TIME THE
6 SEARCH WARRANT WAS EXECUTED?

7 **A.** YES.

8 **Q.** AND DID YOU COMPARE THE SERIAL NUMBER TO THAT -- THE
9 SERIAL NUMBER THAT YOU HAD SEEN IN THE FORENSICS ON THE
10 COMPUTER?

11 **A.** YES.

12 **Q.** REGARDING THE EXTERNAL HARD DRIVE THAT HAD BEEN USED?

13 **A.** YES.

14 **Q.** DID THEY MATCH?

15 **A.** NO, THEY DID NOT.

16 **Q.** SO ALTHOUGH THERE WAS A MY PASSPORT SEIZED, IT WASN'T THE
17 DEVICE THAT HAD BEEN CONNECTED TO THE COMPUTER; IS THAT
18 CORRECT?

19 **A.** THAT'S CORRECT.

20 **Q.** DID YOU EXAMINE THE COMPUTER TO DETERMINE WHETHER THERE
21 WAS ANY MALWARE ATTACHED TO THE COMPUTER?

22 **A.** YES.

23 **Q.** AND WHAT DID YOU FIND?

24 **A.** NONE.

25 **Q.** WHAT IS MALWARE?

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1 Q. (BY MS. CABRAL): I'M GOING TO APPROACH. I AM GOING TO
2 SHOW YOU WHAT'S BEEN MARKED AS GOVERNMENT EXHIBIT 42. DO YOU
3 RECOGNIZE THAT?

4 A. YES.

5 (EXHIBIT NO. 42 MARKED FOR IDENTIFICATION)

6 Q. (BY MS. CABRAL): WHAT IS IT?

7 A. THIS IS A DISK CONTAINING VIDEO EVIDENCE THAT WAS
8 DOWNLOADED FROM THE COMPUTER.

9 Q. DOES IT ALSO CONTAIN IMAGES AND VIDEO THAT WAS CONTAINED
10 ON THE COMPUTER?

11 A. YES.

12 MS. CABRAL: THE GOVERNMENT MOVES TO ADMIT
13 EXHIBIT 42, YOUR HONOR.

14 THE COURT: ANY OBJECTION TO 42?

15 MR. CARLOS: SUBJECT TO PREVIOUS OBJECTIONS, YOUR
16 HONOR.

17 THE COURT: I WILL OVERRULE THE OBJECTIONS AND IT IS
18 ADMITTED. YOU MAY PUBLISH.

19 (EXHIBIT NO. 42 RECEIVED INTO EVIDENCE)

20 Q. (BY MS. CABRAL): DETECTIVE JACKSON, ON APRIL 16 YOU
21 DOWNLOADED THE VIDEO FILE TITLED !11 YEAR STRIP -- HASH TAG OR
22 POUND SIGN, DEPENDING ON HOW OLD YOU ARE -- PTSC SDPA OPVA
23 HUSSY FAN KINDER KUTJE #MPG; IS THAT CORRECT?

24 THE COURT: HAS THE JURY SEEN THE SCREEN? IS IT ON
25 FOR YOU GUYS?

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1 DEPUTY CLERK: WHAT WE HAVE ON THE SCREEN NOW IS
2 FINE.

3 MS. CABRAL: SO IF WE COULD, WE'LL PUBLISH A PORTION
4 OF THAT VIDEO TO YOU AND THEN WE'LL HAVE THE AGENT DESCRIBE THE
5 VIDEO.

6 THE COURT: IS IT ON NOW? YOU ARE SEEING IMAGES,
7 LIKE A COMPUTER? THEIR MONITORS ARE UP.

8 (PAUSE/PLAYING VIDEO)

9 MS. CABRAL: AND, FOR THE RECORD, THE START TIME ON
10 THAT WAS -- FOR THE RECORD, WE PLAYED APPROXIMATELY 26 SECONDS
11 OF THAT VIDEO FILE.

12 Q. (BY MS. CABRAL): DETECTIVE JACKSON, CAN YOU DESCRIBE THE
13 ENTIRE VIDEO, PLEASE? THIS IS THE 11YR STRIP.

14 A. YES. THE VIDEO, IN ITS ENTIRETY, IS OF A GIRL THAT WAS
15 SEEN DANCING IN AND OUT OF VARIOUS OUTFITS. SHE TAKES THE
16 CLOTHING COMPLETELY OFF, AND SHE DANCES IN FRONT OF A CAMERA IN
17 DIFFERENT OUTFITS, WHERE SHE IS SEEN NUDE.

18 Q. LET ME ASK YOU THIS QUESTION: IN A PORTION OF THE VIDEO
19 DOES SHE APPROACH THE SCREEN AND DISPLAY HER GENITALIA TO THE
20 CAMERA?

21 A. YES.

22 Q. AND THE SECOND VIDEO YOU DOWNLOADED APRIL 16, TITLED
23 !!! DASHA DEBUT RUSSIAN PTHC.AVI. AND, AGAIN, WE ARE GOING TO
24 PLAY FROM THE BEGINNING.

25 (PLAYING VIDEO)

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1 MS. CABRAL: AND APPROXIMATELY HOW MUCH?

2 MS. GRIFFITH: WE STARTED AT 3:37 AND RAN IT FOR
3 APPROXIMATELY 20 SECONDS.

4 MS. CABRAL: SO FOR THE RECORD, WE BEGAN VIEWING AT
5 3:33 -- 37 SECONDS AND RAN FOR APPROXIMATELY 20 SECONDS.

6 THE COURT: ALL RIGHT.

7 Q. (BY MS. CABRAL): ON APRIL 17TH THE VIDEO THAT YOU
8 DOWNLOADED WAS TITLED !!! NEW HUSSY FAN RUSSIAN 8 YO BLOND GIRL
9 PTHC SHARE.

10 AND I APOLOGIZE. I AM GOING TO BACK UP BECAUSE I
11 DIDN'T HAVE YOU GIVE US THE REST OF THE DESCRIPTION OF THAT
12 OTHER VIDEO THAT WE JUST VIEWED.

13 A. YES. IN THE VIDEO THAT WE JUST VIEWED, WHAT THAT FILM
14 DEPICTS IS THE GIRL THAT WAS VIEWED ON THERE IS COMPLETELY
15 NUDE. SHE IS AT VARIOUS STAGES OF MASTURBATING HERSELF, WITH
16 THE FOCAL POINT OF THE VIDEO BEING ON HER GENITALIA.

17 AND SHE REPOSITIONS HERSELF IN DIFFERENT POSITIONS AS
18 SHE IS MASTURBATING, AGAIN, WITH THE CAMERA FOCAL POINT BEING
19 ON HER GENITALIA.

20 NEAR THE END OF THE VIDEO, SHE IS APPROACHED BY A
21 CLOTHED ADULT MALE, WHO THEN EXPOSES HIS ERECT PENIS. AND THE
22 GIRL PICTURED IN THE VIDEO THEN ORALLY COPULATES THAT MALE IN
23 THE VIDEO.

24 Q. THANK YOU. AND THEN WE'LL GO BACK TO THE VIDEO THAT WAS
25 DISTRIBUTED TO YOU ON APRIL 17TH, THE NEW HUSSY FAN RUSSIAN 8

1 YO BLOND.

2 (PLAYING VIDEO)

3 **MS. CABRAL:** APPROXIMATELY HOW LONG?

4 **MS. GRIFFITH:** 10 SECONDS.

5 **MS. CABRAL:** FOR THE RECORD, WE PLAYED, FROM THE
6 BEGINNING, APPROXIMATELY 10 SECONDS.

7 **Q. (BY MS. CABRAL):** DETECTIVE JACKSON, COULD YOU DESCRIBE
8 THAT VIDEO IN FULL?

9 **A.** THE VIDEO IN FULL IS OF A -- THE GIRL THAT WAS PICTURED IN
10 THAT VIDEO IS A PREPUBESCENT GIRL. THE VIDEO IS OF HER ORALLY
11 COPULATING THE ADULT MALE PICTURED IN THE VIDEO, INSIDE OF WHAT
12 APPEARS TO BE A VEHICLE.

13 **Q.** AND THEN ON MAY 7TH, ONE OF THE TWO FILES THAT YOU
14 DOWNLOADED, THE 2010 PTHC BABY SHIVID VIDEO.

15 (PLAYING VIDEO)

16 **MS. GRIFFITH:** 10 SECONDS.

17 **MS. CABRAL:** WE PLAYED, FROM THE BEGINNING,
18 APPROXIMATELY 10 SECONDS, YOUR HONOR.

19 **THE COURT:** OKAY.

20 **Q. (BY MS. CABRAL):** DETECTIVE JACKSON, COULD YOU DESCRIBE
21 THE VIDEO IN FULL?

22 **A.** THIS VIDEO DEPICTS A FEMALE TODDLER BEING SEXUALLY
23 PENETRATED BY AN ADULT MALE, WHO PUTS HIS ERECT PENIS INSIDE OF
24 THE CHILD'S VAGINA. THERE ARE SEVERAL CLIPS THAT ESSENTIALLY
25 SHOW THAT THERE ARE SEPARATE ACTS, WHAT APPEARS TO BE THE SAME

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1 CHILD, SAME MALE ENGAGED IN THE SAME TYPE OF ACT OF THE FULL
2 SEXUAL PENETRATION.

3 NEAR THE END OF VIDEO, THE MALE THEN REMOVES HIS
4 PENIS AND EJACULATES ON THE GIRL'S ABDOMEN, AT WHICH POINT YOU
5 CAN SEE THE TODDLER'S HAND COME DOWN AND SHE IS SMEARING THE
6 EJACULATE ON HER ABDOMEN WHILE THE MALE THEN RE-PENETRATES THE
7 CHILD AND THE VIDEO THEN TURNS OFF.

8 Q. AND SO THOSE ARE THE VIDEOS, THEN, IF I AM CORRECT, THAT
9 WERE DISTRIBUTED TO YOU; IS THAT CORRECT?

10 A. CORRECT.

11 Q. FROM THE IP ADDRESS?

12 A. YES, MA'AM.

13 Q. WITH REGARD TO THE ITEMS POSSESSED ON THE COMPUTER, THERE
14 IS A VIDEO IN UNALLOCATED SPACE.

15 (PLAYING VIDEO)

16 MS. CABRAL: FOR THE RECORD, WE PLAYED FROM THE
17 BEGINNING FOR APPROXIMATELY 10 SECONDS, YOUR HONOR, THE VIDEO
18 FROM THE UNALLOCATED SPACE.

19 Q. (BY MS. CABRAL): DETECTIVE JACKSON, IF YOU COULD JUST
20 BRIEFLY DESCRIBE THE VIDEO?

21 A. YES. THE PREPUBESCENT GIRL THAT WAS SEEN IN THE VIDEO,
22 SHE FULLY UNDRESSES. THE CAMERA CONTINUES TO FOCUS IN AND ZOOM
23 IN ON HER GENITALIA. THE VIDEO THEN TRANSITIONS TO ANOTHER
24 SCENE WHERE THE SAME GIRL IS THEN INSIDE OF A BATHTUB WITH A
25 GIRL THAT IS MAYBE A COUPLE YEARS OLDER THAN HER, ANOTHER

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1 PRE-TEENAGE GIRL. THE TWO ARE THEN SHOWERING WITH ONE ANOTHER.

2 THE OLDER GIRL IS WASHING THE YOUNGER GIRL AND
3 SPRAYING HER WITH A REMOVABLE SHOWER NOZZLE, USING THE NOZZLE
4 AS A DEVICE TO SPRAY THE YOUNG GIRL IN THE GENITALS.

5 Q. YOU MENTIONED THERE WERE FIVE IMAGES. THERE WERE MORE
6 THAN APPROXIMATELY 47 IMAGES IN THE THUMBS DB?

7 A. CORRECT.

8 Q. WE HAVE FIVE IMAGES, TOTAL. FOUR OF THE FIVE ARE SIMILAR;
9 IS THAT CORRECT?

10 A. YES, MA'AM.

11 Q. AND CAN YOU JUST GIVE A GENERAL DESCRIPTION OF FOUR OF
12 THOSE FIVE IMAGES?

13 A. YES. FOUR OF THE FIVE IMAGES THAT WERE PULLED OFF FROM
14 THE THUMBNAIL OR THE THUMBS DB DATABASE WERE SNAPSHOTS THAT
15 APPEARED TO HAVE BEEN FROM THE BABY SHIVID, THE TODDLER FEMALE
16 THAT WAS BEING SEXUALLY PENETRATED BY THE ADULT MALE.

17 Q. AND THOSE ARE EACH DISTINCT IMAGES?

18 A. YES.

19 Q. IS THAT CORRECT?

20 A. YES.

21 Q. AND THEN AS TO THE FIFTH IMAGE, WHAT WAS THE FIFTH IMAGE?

22 A. THE FIFTH IMAGE WAS A THUMBNAIL CAPTURED FROM THE THUMBS
23 DB. AND THIS IS AN IMAGE CAPTURE OF THE VIDEOS THAT WERE
24 DOWNLOADED FROM THE LAPTOP COMPUTER IN THE COURSE OF MY
25 INVESTIGATION, WHICH DEPICTS AN ADULT MALE WEARING A

1 MULTICOLORED SHIRT, THAT IS ON TOP OF A YOUNG PRE-PREPUBESCENT
2 GIRL WHO IS NUDE. THAT'S THE CONTENT I HAVE SEEN IN THAT
3 IMAGE.

4 **MS. CABRAL:** AND EACH OF THE FIVE IMAGES HAVE BEEN
5 DISPLAYED. YOUR HONOR, THE GOVERNMENT HAS NOTHING FURTHER FOR
6 THIS WITNESS.

7 **THE COURT:** OKAY. MR. CARLOS.

8 **CROSS-EXAMINATION**

9 **BY MR. CARLOS:**

10 Q. YOU WERE JUST TALKING ABOUT A SCREEN SHOT, THE THING YOU
11 DESCRIBED, RIGHT, IN THE ALLOCATED SPACE?

12 A. I'M NOT SURE I UNDERSTAND THE QUESTION.

13 Q. YOU WERE JUST DESCRIBING WHAT LOOKED LIKE, YOU SAID,
14 SCREEN SHOTS OR SNAPSHOTS FROM VIDEO IN THE UNALLOCATED SPACE?

15 A. THE --- NO. THEY WERE THUMBNAILS FROM THE THUMBS DATABASE
16 OF CONTENT THAT WAS PREVIOUSLY STORED ON THE DEVICE.

17 Q. SO HOW DO THEY GO ONTO THE THUMBS DATABASE?

18 A. ONCE THOSE PICTURES ARE MANIPULATED SO THAT THEY ARE
19 VIEWABLE AT THAT FILE LEVEL WITHIN THE FILE TREE, IF THE USER
20 SELECTS TO SHOW A THUMBNAIL OF THE IMAGE, THAT IMAGE IS THEN
21 CAPTURED AND MAINTAINED WITHIN THAT THUMBS DATABASE.

22 Q. OKAY. AND IS THE THUMBS DATABASE ON THE DESKTOP OR DO YOU
23 HAVE TO SEARCH IN THE COMPUTER TO FIND IT?

24 A. YOU WOULD HAVE TO SEARCH INTO THE COMPUTER TO GET IT.
25 IT'S NOT SOMETHING THAT IS TYPICALLY -- THERE IS NOT AN ICON ON

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1 Q. RIGHT. SO, PHYSICALLY, WHAT IS IT? WHAT DOES IT LOOK
2 LIKE?

3 A. IT WOULD DEPEND ON THE MODEL. AN EXTERNAL HARD DRIVE,
4 THEY TAKE ON DIFFERENT APPEARANCES BUT, TYPICALLY, THEY WOULD
5 LOOK LIKE A LARGE WALLET.

6 Q. SO SOMEBODY CAN CARRY IT AROUND?

7 A. CORRECT.

8 Q. YOU CAN CARRY IT AROUND IN A POCKET, RIGHT?

9 A. CONCEIVABLY, YES.

10 Q. YOU CAN CARRY IT IN A BRIEFCASE, IT'S MOBILE?

11 A. CORRECT.

12 Q. AND THAT PARTICULAR HARD DRIVE CAME WITH THINGS THAT WERE
13 DOWNLOADED AND IT CAN BE THEN INPUT INTO EITHER A LAPTOP OR
14 ANOTHER COMPUTER TO BE VIEWED?

15 A. CORRECT.

16 Q. AND, THEN, IN TURN, YOU CAN USE THAT COMPUTER TO DOWNLOAD
17 THE INFORMATION AND TRANSFER IT TO THE PASSPORT, THE EXTERNAL
18 HARD DRIVE?

19 A. YES.

20 Q. AND YOU SEIZED A NUMBER OF EXTERNAL HARD DRIVES IN THIS
21 CASE DURING YOUR SEARCH?

22 A. AS I RECALL, THERE WERE TWO EXTERNAL HARD DRIVES THAT WERE
23 RECOVERED.

24 Q. AND NONE OF THOSE WERE THE PASSPORT THAT WAS REFERRED
25 TO -- OR AT LEAST THE ONES YOU'VE IDENTIFIED HERE IN COURT?

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1 **A.** NO.

2 **Q.** YOU KNOW, IN YOUR INVESTIGATION IN CASES LIKE THIS, AS A
3 WAY OF JUST MAINTAINING A LEVEL OF DECEPTION OR SECURITY A
4 PERSON MIGHT USE A MOBILE DEVICE? IN OTHER WORDS, SOMETHING
5 THEY CAN CARRY WITH THEM TO STORE THESE THINGS FOR SECURITY'S
6 SAKE?

7 **MS. CABRAL:** OBJECTION, YOUR HONOR. SPECULATION.

8 **THE COURT:** OVERRULED. IF YOU KNOW.

9 **THE WITNESS:** CAN YOU REPEAT THE QUESTION, SIR?

10 **Q.** (BY MR. CARLOS): IN YOUR INVESTIGATION -- I MEAN, YOU
11 HAVE DONE A LOT OF THESE CASES, RIGHT, A LOT OF THESE
12 INVESTIGATIONS?

13 **A.** I HAVE DONE A NUMBER OF INVESTIGATIONS.

14 **Q.** SO PEOPLE MANIPULATE THE FILES IN DIFFERENT WAYS, CORRECT?

15 **A.** AS FAR AS TRANSFERRING THEM TO DIFFERENT DEVICES?

16 **Q.** YES.

17 **A.** YES.

18 **Q.** AND SO ONE OF THE THINGS WITH A PORTABLE DEVICE LIKE THAT,
19 IT'S A WAY OF DECEPTION. YOU'RE NOT KEEPING THEM ON THE HARD
20 DRIVE OF THE ACTUAL COMPUTER, BUT YOU HAVE THEM WITH YOU,
21 ESSENTIALLY?

22 **A.** POTENTIALLY, YES.

23 **Q.** AND YOU CAN TAKE THEM AND YOU CAN INPUT THEM INTO
24 DIFFERENT COMPUTERS, ACTUALLY?

25 **A.** CORRECT.

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1 Q. SO THE LAPTOP, THEN, OR THE COMPUTER THAT YOU ARE
2 EXPORTING FROM, SORT OF BECOMES A CONDUIT TO THE INTERNET?

3 A. I'M NOT SURE I UNDERSTAND YOUR QUESTION.

4 Q. SO THIS IS THE COMPUTER IN FRONT OF ME. AND THE SCREEN
5 THAT YOU ARE LOOKING AT, I'M DOWNLOADING WHATEVER I AM
6 DOWNLOADING. I'M EXPORTING IT TO A -- SAY THIS IS A PASSPORT,
7 MY PHONE. IT'S ABOUT THE SAME SIZE.

8 A. OKAY.

9 Q. SO I'M USING THE COMPUTER HERE TO GET INFORMATION AND THEN
10 PUTTING IT INTO THIS PARTICULAR DRIVE, CORRECT?

11 A. OKAY.

12 Q. AND I TAKE THIS DRIVE AND I CAN WALK AWAY?

13 A. CORRECT.

14 Q. AND IT'S NOT ON THIS COMPUTER ANYMORE BECAUSE I EXPORTED
15 IT?

16 A. THE DATA MIGHT NOT BE ON IT, BUT IT DEPENDS. IF YOU COPY
17 IT, THEN IT WOULD BE ON BOTH DEVICES. IF YOU WERE TO JUST
18 MAINLY -- IF YOU WERE TO DO A TRANSFER AND THEN DELETE THE
19 CONTENT, THEN, YEAH.

20 Q. SO I HAVE THESE NOW IN MY PASSPORT AND I WALK. I CAN BE
21 WHEREVER I NEED TO BE. AND I CAN GO TO A DIFFERENT COMPUTER
22 OVER HERE. AND I CAN TAKE MY PASSPORT, PLUG IT IN, AND THEN
23 GET THE MATERIAL THAT I TOOK FROM THAT COMPUTER, CORRECT?

24 A. CORRECT.

25 Q. AND ONCE AGAIN, THE INDIVIDUAL -- OR WHAT WE DON'T KNOW IS

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1 WHO IS IN POSSESSION OF A PARTICULAR PASSPORT PHYSICALLY.
2 UNLESS YOU SEE THE PERSON HOLDING IT, YOU DON'T KNOW WHO HAS
3 IT, CORRECT?

4 **A.** CORRECT.

5 **Q.** AND WE KNOW, OF THE EXTERNAL HARD DRIVES, NONE OF THOSE
6 WERE THE ONES THAT HAVE BEEN REFERRED TO IN YOUR INVESTIGATION
7 HERE?

8 **A.** THAT'S CORRECT.

9 **Q.** NOW, YOU SAID EARLIER TODAY AND, AGAIN, I THINK DURING
10 THIS ROUND OF EXAMINATION, THAT IT'S YOUR OPINION THAT IN ORDER
11 TO DOWNLOAD THESE FILES OR MAKE THE FILES AVAILABLE FOR
12 DISTRIBUTION YOU NEED A PHYSICAL PRESENCE THERE, RIGHT?
13 SOMEBODY HAS TO ACTUALLY DO SOMETHING?

14 **A.** NO. I SAID THAT YOU DON'T NEED TO PHYSICALLY BE BEHIND
15 THE KEYBOARD WHEN THE DOWNLOADING IS TAKING PLACE. THE PROGRAM
16 ITSELF WOULD JUST NEED TO BE OPERATIONAL AND CONNECTED TO THE
17 NETWORK.

18 **Q.** SO AT THE VERY LEAST YOU NEED TO FIRE UP YOUR COMPUTER AND
19 TURN IT ON?

20 **A.** CORRECT.

21 **Q.** YOU NEED TO GO ONTO THE BROWSER, RIGHT?

22 **A.** CORRECT.

23 **Q.** AND NOW YOU'RE ON THE INTERNET AND YOU HAVE TO SEARCH --
24 OR AT LEAST HAVE YOUR SHORTCUT TO GET YOU TO THIS PARTICULAR
25 PLACE, RIGHT?

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1 TO MR. WALSH WHEN HIS RESIDENCE WAS BEING SEARCHED?

2 A. AT THE CONCLUSION, YES.

3 Q. AND WE HAVE HEARD FROM OTHER WITNESSES -- AND I'M ASKING
4 YOU -- WAS HE COOPERATIVE WITH YOU?

5 A. YES.

6 Q. HE ANSWERED YOUR QUESTIONS?

7 A. YES.

8 Q. HE DIDN'T ATTEMPT TO FLEE FROM YOU?

9 A. NO.

10 Q. YOU SAID THAT HE MENTIONED THAT HE HAD DOWNLOADED AMERICAN
11 SNIPER?

12 A. CORRECT.

13 Q. AND HE HAD ADMITTED IT WAS A PIRATED MOVIE?

14 A. CORRECT.

15 Q. AND THEN YOU ACTUALLY CONFIRMED THAT HE DID, IN FACT,
16 DOWNLOAD AMERICAN SNIPER?

17 A. CORRECT.

18 Q. YOU SAID YOU ASKED HIM ABOUT LIMEWIRE PRO?

19 A. CORRECT.

20 Q. AND HE JUST SAID I DON'T KNOW ANYTHING ABOUT THAT?

21 A. CORRECT.

22 Q. NOW, YOU WEREN'T RECORDING THE CONVERSATION, WERE YOU?

23 A. NO.

24 Q. WAS ANYBODY THERE WITH YOU WHEN YOU WERE ASKING THOSE
25 QUESTIONS?

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1 **A.** THE OTHER INVESTIGATORS WERE IN THE PROCESS OF REMOVING
2 PROPERTY FROM THE RESIDENCE TO OUR VEHICLES. I MADE MYSELF
3 AVAILABLE TO HIM TO SPEAK, AND HE HAD OFFERED SPEAKING WITH HIM
4 IN THE DINING ROOM. WE SAT AT THE DINING ROOM TABLE.

5 THERE WAS NOBODY IMMEDIATELY AROUND US WHEN THAT
6 TRANSPired, AS FAR AS, I BELIEVE, SOMEBODY OVERHEARING US. BUT
7 CERTAINLY THE OTHER INVESTIGATORS WERE AWARE OF ME BEING AT THE
8 DINING ROOM TABLE SPEAKING WITH MR. WALSH, YES.

9 **Q.** SO IT WAS, BASICALLY, YOU AND HIM?

10 **A.** YES.

11 **Q.** HE DENIED KNOWING ANYTHING ABOUT ANY CHILD PORNOGRAPHY TO
12 YOU?

13 **A.** CORRECT.

14 **Q.** IN FACT, HE WAS SURPRISED. DID HE APPEAR SURPRISED TO
15 YOU?

16 **MS. CABRAL:** OBJECTION, YOUR HONOR. FOUNDATION.

17 **THE COURT:** OVERRULLED.

18 IF YOU HAVE A RECOLLECTION OF HIS PHYSICAL APPEARANCE
19 THAT YOU INTERPRETED AS SURPRISE, YOU CAN ANSWER.

20 **THE WITNESS:** I THINK HE WAS SURPRISED THAT WE HAD
21 SHOWN UP AT THE HOUSE THAT MORNING AND WE HAD A WARRANT AND
22 THAT WE WERE SEARCHING THROUGH HIS RESIDENCE, AS ANYBODY WOULD
23 BE SURPRISED.

24 **Q. (BY MR. CARLOS):** THAT WAS YOUR IMPRESSION. I UNDERSTAND
25 THAT.

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1 Q. YOU WERE THERE FOR A LITTLE WHILE?

2 A. YES.

3 Q. AND AT THE BEGINNING SOMEONE READ THE SEARCH WARRANT TO
4 THE DEFENDANT; IS THAT RIGHT?

5 A. CORRECT.

6 Q. AND SO HE KNEW WHAT YOU WERE THERE TO LOOK FOR; IS THAT
7 RIGHT?

8 A. CORRECT.

9 Q. SO BY THE TIME YOU TALKED TO HIM BEFORE YOU LEFT, HE KNEW
10 FOR A LITTLE WHILE WHAT YOU WERE THERE LOOKING FOR; IS THAT
11 RIGHT?

12 A. YES.

13 Q. WITH REGARD TO THE PASSWORD TO THE COMPUTER, DID HE TELL
14 YOU ANYTHING ABOUT WHETHER HE HAD GIVEN HIS STEPSON THE
15 PASSWORD TO HIS COMPUTER?

16 A. ONCE HE IDENTIFIED HIS STEPSON NICK AS BEING A PERSON WHO
17 POTENTIALLY HAD USED IT A MONTH PRIOR, I ASKED HIM POINTEDLY IF
18 NICK HAD HIS PASSWORD, TO WHICH HE TOLD ME HE DIDN'T BELIEVE
19 SO.

20 Q. DID THE DEFENDANT MAKE ANY STATEMENTS TO YOU ABOUT WHETHER
21 HE THOUGHT ANYONE ELSE HAD HIS PASSWORD?

22 A. NO.

23 Q. DID HE AFFIRMATIVELY, TELL YOU THAT HE DIDN'T GIVE HIS
24 PASSWORD TO OTHER PEOPLE?

25 A. THAT'S CORRECT.

FEBRUARY 28, 2018

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

3 UNITED STATES OF AMERICA,) VOLUME 3
4 PLAINTIFF,) CASE NO. 17CR1269-AJB
5 -v-)
6 WILLIAM FRANCIS WALSH IV,) MARCH 1, 2018
7 DEFENDANT.) 9:02 A.M
) SAN DIEGO, CALIFORNIA
)

PARTIAL TRANSCRIPT OF JURY TRIAL

BEFORE THE HONORABLE ANTHONY J. BATTAGLIA
UNITED STATES DISTRICT JUDGE

15 APPEARANCES:

16 FOR THE GOVERNMENT: ADAM L. BRAVERMAN, UNITED STATES ATTORNEY
17 BY: JANET A. CABRAL, ESQ.
18 AMANDA GRIFFITH, ESQ.
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REPORTED BY STENOTYPE, TRANSCRIPT PRODUCED BY COMPUTER

MARCH 1, 2018

1 SAN DIEGO, CALIFORNIA; THURSDAY, MARCH 1, 2018; 9:02 A.M.

2 (PROCEEDINGS HAD IN OPEN COURT, IN THE HEARING OF THE JURY)

3 **THE COURT:** GOOD MORNING, LADIES AND GENTLEMEN. I
4 SEE WE HAVE YOU ALL BACK. COUNSEL AND THE PARTIES HAVE
5 RETURNED. WE FINISHED THE PLAINTIFF'S CASE YESTERDAY, AND THE
6 DEFENSE DOES WISH TO PUT WITNESSES ON.

7 MR. CARLOS, LET'S CALL YOUR FIRST ONE.

8 **MR. CARLOS:** PATTY CHISHOLM.

9 **THE COURT:** LET'S BRING HER FORWARD.

10 (**PATRICIA CHISHOLM, DEFENSE WITNESS, TESTIFIED AS FOLLOWS:)**

11 **DEPUTY CLERK:** PLEASE RAISE YOUR RIGHT HAND.

12 YOU DO SOLEMNLY SWEAR THAT THE EVIDENCE YOU SHALL
13 GIVE IN THE CAUSE NOW BEFORE THE COURT SHALL BE THE TRUTH, THE
14 WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP YOU GOD?

15 **THE WITNESS:** YES.

16 **DEPUTY CLERK:** THANK YOU. PLEASE TAKE THE STAND.

17 STATE YOUR FULL NAME AND SPELL YOUR LAST NAME FOR THE RECORD.

18 **THE WITNESS:** MY NAME IS PATRICIA CHISHOLM,
19 C-H-I-S-H-O-L-M.

20 **THE COURT:** THANK YOU.

21 GO AHEAD, MR. CARLOS.

22 **DIRECT EXAMINATION**

23 **BY MR. CARLOS:**

24 **Q.** MS. CHISHOLM, DO YOU RESIDE IN SAN DIEGO COUNTY?

25 **A.** YES, I DO.

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1 Q. WHEREABOUTS DO YOU LIVE?

2 A. VISTA, CALIFORNIA.

3 Q. WHO DO YOU RESIDE WITH?

4 A. BILL WALSH.

5 Q. IS BILL WALSH IN THE COURTROOM HERE TODAY?

6 A. I'M SORRY? I DIDN'T HEAR YOU.

7 Q. CAN YOU SEE BILL WALSH IN THE COURTROOM TODAY?

8 A. YES.

9 Q. CAN YOU POINT HIM OUT?

10 A. (INDICATING)

11 A. DESCRIBE WHAT HE IS WEARING, PLEASE.

12 A. HE IS SITTING IN THE TABLE IN THE FRONT, NEXT TO THE
13 BLONDE LADY.

14 THE COURT: THE RECORD WILL REFLECT SHE HAS
15 IDENTIFIED THE DEFENDANT.

16 Q. (BY MR. CARLOS): HOW DO YOU KNOW MR. WALSH?

17 A. WE HAVE BEEN TOGETHER FOR 19 YEARS.

18 Q. ARE YOU MARRIED?

19 A. WE ARE NOT MARRIED, BUT WE HAVE LIVED TOGETHER FOR 19
20 YEARS.

21 Q. EXCLUSIVELY, IN THE SAME RESIDENCE?

22 A. YES.

23 Q. BACK IN 2015, WHERE WERE YOU LIVING?

24 A. IN THE SAME HOUSE IN VISTA.

25 Q. WHAT'S THE ADDRESS?

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1 THE LOCAL AREA WHO WOULD COME AND SPEND DAYS, NIGHTS WITH US.

2 Q. DO YOU HAVE A SON?

3 A. YES, I DO.

4 Q. WHAT IS HIS NAME?

5 A. HIS NAME IS NICHOLAS CHISHOLM.

6 Q. HOW OLD IS NICHOLAS CHISHOLM NOW?

7 A. 26.

8 Q. IN 2015, HOW OLD WAS HE?

9 A. HE WOULD HAVE BEEN 24.

10 Q. WAS HE LIVING WITH YOU AT ANY TIME?

11 A. NOT IN 2015. PRIOR TO THAT, HE DID LIVE WITH US.

12 Q. OKAY. WHAT PERIOD OF TIME WAS HE THERE?

13 A. HE WAS THERE UNTIL, I THINK, THE END OF 2013, 2014.

14 Q. WAS HE A WELCOME GUEST WHEN HE WOULD APPEAR FROM TIME TO
15 TIME?

16 A. YES.

17 Q. HE IS YOUR SON, RIGHT?

18 A. YES.

19 Q. DID HE GET ALONG WITH YOUR HUSBAND?

20 A. YES.

21 Q. DID MR. WALSH HAVE A SON?

22 A. YES, HE DOES.

23 Q. DOES HE HAVE CHILDREN?

24 A. YES. HE HAS TWO CHILDREN.

25 Q. DO YOU KNOW THEIR NAMES?

MARCH 1, 2018

1 A. BILLY WALSH AND WHITNEY WALSH. WHITNEY SEALS (PHONETIC)
2 NOW. SHE IS RECENTLY MARRIED.

3 Q. DO YOU KNOW WHERE WHITNEY LIVES?

4 A. SHE LIVES IN ARIZONA.

5 Q. AND BILLY WALSH, DO YOU KNOW WHERE HE LIVES NOW?

6 A. HE LIVES IN OCEANSIDE.

7 Q. YOU HAVE TO WAIT FOR ME TO FINISH THE QUESTION.

8 A. SORRY.

9 Q. BILLY WALSH LIVES WHERE?

10 A. HE LIVES IN OCEANSIDE.

11 Q. CLOSE TO YOU IN VISTA?

12 A. YEAH. IT'S ABOUT SIX MILES -- SIX OR SEVEN MILES.

13 Q. AND IS HE MARRIED?

14 A. NO. NO, HE'S NOT MARRIED.

15 Q. DOES HE LIVE WITH ANYBODY?

16 A. HE LIVES WITH HIS MOTHER AND HER HUSBAND.

17 Q. IN 2015, WERE THERE PEOPLE -- I MEAN, WERE THERE -- DID
18 BILLY WALSH VISIT THE HOUSEHOLD?

19 A. YES.

20 Q. UNDER WHAT CIRCUMSTANCES WOULD BILLY WALSH BE THERE?

21 A. HE WOULD COME OVER FOR BARBECUES, AND SOMETIMES HE WOULD
22 BRING FRIENDS WITH HIM TO HAVE, LIKE, A POOL PARTY IN OUR
23 BACKYARD.

24 Q. WAS THAT A FREQUENT THING OR INFREQUENT?

25 A. IT -- FREQUENT. I MEAN, A COUPLE TIMES A MONTH.

MARCH 1, 2018

1 Q. AND THE INDIVIDUALS WOULD BE INSIDE OF YOUR HOUSE?

2 A. YES. THEY WOULD HAVE TO GO THROUGH OUR HOUSE TO GET TO
3 THE BACKYARD.

4 Q. NOW, TO GET INTO YOUR HOUSE, IS IT -- DO YOU HAVE A KEY
5 PAD OR IS IT A HOUSE KEY? HOW DO YOU GET IN THE FRONT DOOR?

6 A. IT'S A HOUSE KEY.

7 Q. AND WHO HAS THE HOUSE KEYS?

8 A. VARIOUS FAMILY MEMBERS. AND WHEN WE WOULD HAVE FRIENDS
9 VISIT FROM OUT OF TOWN, IF I WASN'T GOING TO BE HOME, I WOULD
10 LEAVE A KEY OUT FRONT UNDER A FLOWER POT SO THAT THEY WOULD
11 HAVE ACCESS TO THE HOME BEFORE I GOT THERE.

12 Q. IS THAT THE HIDING PLACE FOR YOUR SPARE KEY, THE FLOWER
13 POT?

14 A. YES.

15 Q. IS THAT A NORMAL THING FOR YOU TO DO?

16 A. WHEN I WAS EXPECTING FAMILY MEMBERS, YES.

17 Q. SO DURING THIS 2015 PERIOD, YOUR SON BILLY -- WHO WAS
18 ABOUT HOW OLD THEN? I MEAN, MR. WALSH'S SON BILLY.

19 A. HE IS ONE YEAR OLDER THAN MY SON, SO HE WOULD HAVE BEEN
20 25, 26.

21 Q. SO BILLY IS THERE WITH HIS OTHER FRIENDS WHO ARE ABOUT THE
22 SAME AGE?

23 A. YES.

24 Q. ARE THESE FRIENDS MALES OR FEMALES?

25 A. IT WAS A COMBINATION OF BOTH.

MARCH 1, 2018

1 Q. WERE THERE ANY FREQUENT MALE VISITORS? IN OTHER WORDS,
2 MORE THAN -- THE SAME MALES MORE THAN ONCE?

3 A. YES.

4 Q. DO YOU KNOW THEIR NAMES AT ALL?

5 A. I DON'T REALLY KNOW THEIR NAMES. I KNOW THEY HAD MOSTLY
6 NICKNAMES. I DON'T KNOW WHAT THEY ARE.

7 Q. JUST GUYS BEING GUYS, FOLLOWING EACH OTHER?

8 A. YEAH.

9 Q. NOW, WHEN THESE GUYS WOULD BE OVER, WOULD YOU SUPERVISE
10 THEM? I MEAN, AT 25 YEARS OLD, WOULD YOU SUPERVISE THEM?

11 A. NO, I DID NOT.

12 Q. THEY WOULD JUST BE HANGING OUT AT THE POOL AND MAYBE GOING
13 INSIDE AND WATCHING TV AND THINGS LIKE THAT?

14 A. MOSTLY OUTSIDE IN OUR BACKYARD.

15 Q. DRINKING?

16 A. YES.

17 Q. BEERS, BARBECUES, THAT SORT OF THING?

18 A. YES.

19 Q. YOU WEREN'T NECESSARILY WATCHING WHAT THEY WERE DOING THE
20 ENTIRE TIME?

21 A. NO. IN FACT, A COUPLE TIMES WHEN I WOULD COME HOME, IF HE
22 WAS THERE WITH FRIENDS OVER, I WOULD JUST LEAVE AND GO LEAVE
23 THEM TO THEMSELVES.

24 Q. NOW, YOUR HUSBAND, MR. WALSH, DO YOU KNOW HOW HE WAS
25 EMPLOYED?

MARCH 1, 2018

1 A. YES.

2 Q. AS WHAT?

3 A. HE WAS A DISPATCHER AT CAMP PENDELTON FIRE DEPARTMENT.

4 Q. DO YOU KNOW HOW LONG HE WORKED THERE FOR?

5 A. I'M GOING TO TAKE A GUESS. LIKE, 10, 12 YEARS.

6 Q. IN 2015, DO YOU REMEMBER WHAT HIS WORK SCHEDULE WAS LIKE?

7 A. YES.

8 Q. WHAT WAS IT?

9 A. HE WORKED NIGHT SHIFT FROM SEVEN AT NIGHT UNTIL SEVEN IN
10 THE MORNING.

11 Q. ALL RIGHT. AND LET'S TAKE --- LET'S GO THROUGH THE DAY.

12 SO SEVEN AT NIGHT/SEVEN IN THE MORNING HE IS AT CAMP PENDELTON?

13 A. YES.

14 Q. YOU LIVE IN VISTA. DO YOU KNOW -- HAVE YOU EVER MADE THE
15 DRIVE FROM VISTA TO CAMP PENDLETON?

16 A. ONCE OR TWICE.

17 Q. DO YOU KNOW HOW LONG IT WOULD GENERALLY TAKE AT SEVEN AT
18 NIGHT?

19 A. 35, 40 MINUTES.

20 Q. SO IF YOUR HUSBAND WERE GOING STRAIGHT TO WORK AT A
21 7:00 SHIFT, HE WOULD BE LEAVING AT MAYBE 6:15-ISH?

22 A. YES.

23 Q. THAT'S IF HE WAS GOING STRAIGHT TO WORK?

24 A. YES.

25 Q. WOULD HE GO TO SOMEPLACE BEFORE GOING TO WORK, IF YOU

MARCH 1, 2018

1 Q. ANOTHER DESKTOP UPSTAIRS?

2 A. YES.

3 Q. WHO HAD ACCESS TO THAT?

4 A. EVERYONE.

5 Q. EVERYONE?

6 A. YES.

7 Q. NOW, WAS THERE ALSO A LAPTOP?

8 A. YES.

9 Q. WHICH LAPTOP IS THAT?

10 A. IT WAS A LAPTOP THAT BELONGED TO BILL. AND HE USED IT TO
11 TAKE BACK AND FORTH TO WORK.

12 Q. ALL RIGHT. SO WERE THERE PASSWORDS TO THE COMPUTERS
13 DOWNSTAIRS AND UPSTAIRS?

14 A. YES.

15 Q. AND ALSO, IF YOU KNOW, IS THERE A PASSWORD TO THE COMPUTER
16 THAT -- THE LAPTOP COMPUTER?

17 A. YES.

18 Q. DID YOU KNOW THE PASSWORDS?

19 A. YES.

20 Q. AND DID YOU HAVE THEM WRITTEN DOWN SOMEWHERE, OR STORED?

21 A. YES. WE HAD THEM WRITTEN DOWN ON PIECES OF PAPER SO THAT
22 WE COULD -- SO THAT I COULD REMEMBER THEM. AND WHEN PEOPLE
23 WOULD COME TO OUR HOUSE, THEY WOULD ALSO ASK FOR THE WIFI
24 PASSWORD. OR IF THEY NEEDED TO GET ONTO THE COMPUTER TO
25 PRINTOUT THEIR ITINERARIES FOR RETURNING OR WHATEVER, WE WOULD

MARCH 1, 2018

1 GIVE THEM THE PASSWORD TO GO ONTO THE COMPUTER.

2 Q. DID YOU HAVE THEM WRITTEN DOWNSTAIRS OR UPSTAIRS? DO YOU
3 RECALL?

4 A. BOTH.

5 Q. SO THEY WERE ON HARD PIECES OF PAPER WRITTEN DOWN, THE
6 ACCESS CODES?

7 A. YES. I EVEN HAD IT AS A DESKTOP ICON SO I COULD HAVE
8 QUICK AND EASY ACCESS TO IT.

9 Q. AND THE SAME WITH MR. WALSH'S COMPUTER?

10 A. YES.

11 **MR. CARLOS:** NOTHING FURTHER.

12 **THE COURT:** MS. GRIFFITH.

13 **MS. GRIFFITH:** THANK YOU, YOUR HONOR.

14 **CROSS-EXAMINATION**

15 **BY MS. GRIFFITH:**

16 Q. GOOD MORNING, MS. CHISHOLM.

17 A. GOOD MORNING.

18 Q. HOW ARE YOU DOING THIS MORNING?

19 A. I HAVE BEEN BETTER.

20 Q. HAVE YOU BEEN SICK?

21 A. YES.

22 Q. I THINK A LOT OF US HAVE BEEN FEELING THAT PARTICULAR WAY.

23 ARE YOU A LITTLE NERVOUS TODAY?

24 A. A LITTLE BIT.

25 Q. YOU TEND TO SPEAK SOFTLY. DO YOU MIND PULLING THAT

MARCH 1, 2018

1 MICROPHONE CLOSER TO YOU? I KNOW ALL OF US ARE HAVING SOME
2 THROAT PROBLEMS.

3 SO YOU HAVE BEEN WITH THE DEFENDANT FOR 19 YEARS, YOU
4 SAID?

5 A. YES.

6 Q. AND YOU LIVED IN THE HOME IN VISTA FOR 16 YEARS?

7 A. IN THAT PARTICULAR HOME, YES.

8 Q. IN THAT PARTICULAR HOME, YES.

9 DID YOU LIVE SOMEWHERE ELSE IN VISTA BEFORE THAT?

10 A. YES.

11 Q. AND DO YOU CONSIDER HIM YOUR HUSBAND?

12 A. YES.

13 Q. IN A COMMON-LAW SENSE?

14 A. YES.

15 Q. YOU LOVE HIM VERY MUCH, DON'T YOU?

16 A. OF COURSE.

17 MS. GRIFFITH: YOUR HONOR, MAY I APPROACH THE
18 WITNESS?

19 THE COURT: YOU MAY.

20 Q. (BY MS. GRIFFITH): MS. CHISHOLM, I'M GOING TO SHOW YOU
21 WHAT'S BEEN MARKED AS GOVERNMENT EXHIBIT 43 FOR RECORD
22 PURPOSES, AND ASK YOU IF YOU RECOGNIZE THIS?

23 A. YES, I DO.

24 (EXHIBIT NO. 43 MARKED FOR IDENTIFICATION)

25 Q. (BY MS. GRIFFITH): AND WHAT IS THIS?

MARCH 1, 2018

1 Q. HAVE YOU EVER HEARD OF THAT BEFORE?

2 A. NO.

3 Q. YOUR HUSBAND HAS A FACEBOOK ACCOUNT; ISN'T THAT RIGHT?

4 A. HE HAD ONE.

5 Q. HE HAD ONE. BACK IN 2015, DID HE HAVE ONE?

6 A. YES.

7 Q. AND YOU LOGGED ONTO THAT FACEBOOK ACCOUNT -- OR YOU WERE
8 AWARE HE HAD THAT FACEBOOK ACCOUNT?

9 A. YES.

10 Q. DID YOU HAVE YOUR OWN FACEBOOK ACCOUNT?

11 A. YES.

12 Q. IN YOUR HUSBAND'S -- I'M SORRY. I KEEP CALLING HIM YOUR
13 HUSBAND.

14 A. THAT'S FINE.

15 Q. I APOLOGIZE.

16 A. HE IS MY HUSBAND.

17 Q. AS LONG AS WE ARE OKAY WITH THAT.

18 YOUR HUSBAND OR THE DEFENDANT'S FULL NAME IS WILLIAM
19 FRANCIS WALSH THE IV?

20 A. YES.

21 Q. AND ARE YOU AWARE THAT HE HAS SEVERAL EMAIL ACCOUNTS WITH
22 THOSE INITIALS WFWIV?

23 A. YES.

24 Q. OKAY. IN FACT, YOU COMMUNICATED WITH HIM ON SOME OF THOSE
25 EMAILS?

MARCH 1, 2018

1 WAS ALWAYS AVAILABLE.

2 Q. IT WAS ALWAYS AVAILABLE?

3 A. YES.

4 Q. YOUR HUSBAND'S PRIVATE COMPUTER THAT HAS THE STAMP OR THE
5 STICKER SIGNIFYING HIS COUSIN WHO HAD DIED IN THE LINE OF FIRE,
6 LITERALLY, THAT WAS JUST A LAPTOP THAT HE HAD AVAILABLE FOR
7 EVERYBODY?

8 A. YES.

9 Q. WOULD IT SURPRISE YOU TO KNOW THAT HE DIDN'T INDICATE TO
10 ANYONE THAT HE -- SORRY. STRIKE THAT.

11 WOULD IT SURPRISE YOU TO KNOW THAT THE DEFENDANT,
12 YOUR HUSBAND, SAID HE WAS THE ONLY ONE WHO HAD ACCESS TO THAT
13 LAPTOP COMPUTER?

14 A. THAT ONLY -- I'M SORRY. THE QUESTION IS --

15 Q. FAIR ENOUGH. AND IF I'M NOT MAKING SENSE, PLEASE FEEL
16 FREE TO CLARIFY.

17 A. THE SURPRISING PART DOESN'T MAKE SENSE TO ME.

18 Q. WELL, DO YOU CONSIDER YOUR HUSBAND A TRUTHFUL INDIVIDUAL?

19 A. YES, I DO.

20 Q. SO IF HE TOLD SOMEONE THAT HE IS THE ONLY ONE THAT HAD THE
21 PASSWORD TO THAT LAPTOP COMPUTER, WOULD THAT SURPRISE YOU?

22 A. NO.

23 Q. WHY?

24 A. BECAUSE HE DOES HAVE THE PASSWORD TO THE COMPUTER. AND AS
25 I STATED, IT WAS AROUND THE HOUSE. IF SOMEONE WERE TO USE THE

MARCH 1, 2018

1 COMPUTER AND THEY DIDN'T HAVE THE PASSWORD, HE WOULD LOG ON FOR
2 THEM.

3 Q. SO, MS. CHISHOLM, MY QUESTION IS WOULD IT SURPRISE YOU TO
4 KNOW THAT HE TOLD SOMEONE THAT HE WAS THE ONLY ONE WHO HAD
5 ACCESS TO THE PASSWORD: YES OR NO?

6 A. YES.

7 Q. IT WOULD SURPRISE YOU?

8 A. YES. I THINK IT'S A MISUNDERSTANDING.

9 Q. OKAY. FAIR ENOUGH. AND YOU SAID YOUR SON IS NICK; IS
10 THAT RIGHT?

11 A. YES.

12 Q. AND HE HAS BEEN IN GEORGIA FOR QUITE SOME TIME; IS THAT
13 CORRECT?

14 A. YES.

15 Q. AND YOU SAID HE AND YOUR HUSBAND HAVE A GOOD RELATIONSHIP?

16 A. YES.

17 Q. IF I COULD HAVE GOVERNMENT EXHIBIT 29, PLEASE.

18 MR. CHISHOLM, THERE IS GOING TO BE A PICTURE THAT
19 APPEARS IN FRONT OF YOU ON THE SCREEN HERE MOMENTARILY. I AM
20 GOING TO ASK THAT YOU LOOK AT THAT REAL QUICK. I'M GOING TO
21 ASK YOU A COUPLE SPECIFIC QUESTIONS. THIS IS AN EXHIBIT THAT
22 IS ALREADY IN EVIDENCE.

23 YOU SEE SOME RED HIGHLIGHTED BOXES. THE FIRST ONE
24 SAYS "BILL AND PATTY." WOULD THAT BE YOU AND YOUR HUSBAND?

25 A. YES.

MARCH 1, 2018

1 VERACITY OF HIS PAY RECORDS, RIGHT?

2 A. NO.

3 Q. I MEAN, THIS IS YOUR LIVELIHOOD. IF SOMETHING WAS WRONG
4 WITH THE PAY RECORDS AND YOU WEREN'T GETTING PAID, THAT WOULD
5 BE A PROBLEM. THE SAME WITH MR. WALSH, RIGHT?

6 A. RIGHT.

7 Q. SO IF THERE WERE ISSUES REGARDING THOSE HOURS OR THE
8 ACCURACY OF THOSE HOURS, THAT WOULD BE SOMETHING YOU MIGHT BE
9 AWARE OF EVEN IF YOU HADN'T SEEN THOSE SPECIFIC RECORDS BEFORE?

10 A. YES.

11 Q. AND I WANT TO CLARIFY, AND I CAN'T REMEMBER IF IT WAS ON
12 QUESTIONING WITH DEFENSE COUNSEL OR MYSELF, BUT YOU SAID THAT
13 YOU HUSBAND WOULD LOG ON FOR PEOPLE; IS THAT FAIR TO SAY?

14 A. IF THEY DIDN'T HAVE THE PASSWORD TO THE LAPTOP.

15 Q. HE WOULD LOG ON FOR THEM?

16 A. YES.

17 Q. IS THAT WHAT YOU SAID?

18 A. HE WOULD EITHER LOG ON FOR THEM OR GIVE THEM THE PASSWORD.

19 Q. BUT THERE WERE TIMES, I GUESS, WHEN HE JUST LOGGED ON
20 HIMSELF FOR THAT PERSON?

21 A. YES.

22 Q. AND BESIDES YOU, HOW MANY OTHER PEOPLE WERE USING THIS
23 PARTICULAR LAPTOP, THAT YOU SAW?

24 A. MAYBE TWO, TWO OTHER PEOPLE.

25 Q. WHO WERE THOSE PEOPLE?

MARCH 1, 2018

1 A. OUR SONS.

2 Q. AND WHEN, SPECIFICALLY, DID YOU EVER SEE THEM GETTING ONTO
3 THAT LAPTOP COMPUTER, WITH YOUR HUSBAND STANDING RIGHT THERE?

4 A. I DON'T KNOW SPECIFIC TIME OR DATE.

5 Q. ANY TIME AROUND 2015?

6 A. I DON'T RECALL, NO.

7 Q. AND YOU PASSWORD-PROTECT YOUR WIFI, CORRECT?

8 A. YES.

9 Q. BECAUSE YOU SAID YOU HAVE IT AVAILABLE FOR THOSE THAT ARE
10 COMING TO YOUR HOUSE, RIGHT?

11 A. YES.

12 Q. YOU DON'T HAVE THAT WIFI PASSWORD EMBLAZONED ON A POSTER
13 BOARD FACING OUT TO THE PARK BEHIND YOU, JUST LETTING ANYBODY
14 PASSWORD PROTECTED -- OR KNOW THE PASSWORD?

15 A. NO.

16 Q. WHY WOULD YOU PASSWORD-PROTECT YOUR WIFI?

17 A. BECAUSE OF ALL THE -- ALL THE PROBLEMS THAT HAVE BEEN
18 GOING ON WITH, LIKE, HOME DEPOT AND TARGET.

19 Q. SURE. IT MAKES SENSE TO PASSWORD-PROTECT --

20 A. YES.

21 Q. -- YOUR WIFI BECAUSE YOU DON'T WANT RANDOM PEOPLE -- IS
22 THAT FAIR TO SAY?

23 A. YES.

24 Q. I MEAN, GUESTS IN YOUR HOME, YOUR CHILDREN, MR. WALSH'S
25 CHILDREN, LETTING THEM HAVE ACCESS TO THE WIFI PASSWORD MAKES

MARCH 1, 2018

1 COURTROOM.

2 YOUR NEXT WITNESS, MR. CARLOS.

3 MR. CARLOS: WILLIAM WALSH.

4 THE COURT: MR. WALSH, COME ON FORWARD.

5 DEPUTY CLERK: PLEASE RAISE YOUR RIGHT HAND.

6 YOU DO SOLEMNLY SWEAR THAT THE EVIDENCE YOU SHALL
7 GIVE IN THE CAUSE NOW BEFORE THE COURT SHALL BE THE TRUTH, THE
8 WHOLE TRUTH AND NOTHING BUT THE TRUTH, SO HELP YOU GOD?

9 THE WITNESS: I DO.

10 DEPUTY CLERK: THANK YOU. PLEASE TAKE THE STAND AND
11 STATE YOUR FULL NAME AND SPELL YOUR LAST NAME FOR THE RECORD.

12 THE WITNESS: MY NAME IS WILLIAM FRANCIS WALSH.

13 THAT'S W-A-L-S-H. AND I'M THE FOURTH, I-V.

14 THE COURT: MR. CARLOS, YOU MAY EXAMINE THE WITNESS.

15 DIRECT EXAMINATION

16 BY MR. CARLOS:

17 Q. GOOD MORNING, MR. WALSH.

18 A. GOOD MORNING, SIR.

19 Q. HOW OLD ARE YOU?

20 A. I AM 55 YEARS OLD.

21 Q. AND WHERE DO YOU LIVE?

22 A. I LIVE AT IN THE CITY OF VISTA.

23 Q. WHO DO YOU LIVE THERE WITH?

24 A. I LIVE WITH MY WIFE, PATTY.

25 Q. SHE JUST TESTIFIED HERE IN COURT?

MARCH 1, 2018

1 **A.** SHE JUST DID, YES.

2 **Q.** SPECIFICALLY IN 2015, WHO LIVED AT THAT ADDRESS WITH YOU
3 AND YOUR WIFE?

4 **A.** IN 2015 IT WAS MY WIFE AND MYSELF SOLELY, LIVING AT THE
5 HOUSE.

6 **Q.** WHO ELSE WOULD VISIT THE HOUSE DURING THAT PERIOD OF TIME?

7 **A.** WE HAD NUMEROUS VISITORS AT THE HOUSE DURING THAT TIME. I
8 WOULD SAY, SPECIFICALLY, MY SON AND HIS FRIENDS. WHEN I SAY
9 HIS FRIENDS, THERE WOULD BE MULTIPLE FRIENDS. THEY LIKE TO
10 PARTY, AND BACK IN 2015 A LOT OF THEM DIDN'T HAVE JOBS.

11 **THE COURT:** YOU'VE ANSWERED THE QUESTION.

12 **THE WITNESS:** THANK YOU, YOUR HONOR.

13 **THE COURT:** YOUR SON AND HIS FRIENDS. LET'S MOVE ON
14 TO THE NEXT QUESTION.

15 **Q.** **(BY MR. CARLOS):** IN GENERAL, HOW MANY FRIENDS WOULD BE
16 THERE AT ANY ONE GIVEN TIME?

17 **A.** THERE COULD BE 5 TO 10 PEOPLE AT ANY GIVEN TIME.

18 **Q.** AND WHAT WOULD THEY BE DOING THERE?

19 **A.** DRINKING, SMOKING MARIJUANA, PLAYING IN THE POOL. I HAVE
20 A HEATED POOL WITH A SPA IN THE BACKYARD.

21 **Q.** WOULD YOU SUPERVISE THEM?

22 **A.** ABSOLUTELY NOT.

23 **Q.** WHY WOULDN'T YOU SUPERVISE THEM?

24 **A.** FOR ONE, THEY ARE ALL 25, 26 YEARS OLD. IF THEY WERE AT
25 MY HOUSE DURING THE DAYTIME, I'M SLEEPING IF I WORKED THE NIGHT

MARCH 1, 2018

1 SHIFT BEFORE.

2 THE COURT: THE SCREEN IS OFF.

3 MR. CARLOS: I'M GOING TO BE USING GOVERNMENT
4 EXHIBITS THAT ARE ALREADY ADMITTED.

5 THE COURT: SO THE SCREENS CAN GO UP. SO PUT THE
6 SCREENS ON, THEN. SO WHAT NUMBER IS THIS ONE?

7 MR. CARLOS: THIS IS GOVERNMENT EXHIBIT 1.

8 Q. (BY MR. CARLOS): DO YOU RECOGNIZE THAT PICTURE?

9 A. I DO.

10 Q. WHAT IS THAT A PICTURE OF?

11 A. THAT IS A PICTURE OF MY RESIDENCE AT

12 .

13 Q. AND THE TRUCK THAT IS PARKED IN FRONT, WHOSE TRUCK IS
14 THAT?

15 A. THAT IS MY TRUCK. IT'S A 1998 FORD 150.

16 Q. AND YOU CAN SEE CLEARLY THERE IS A STICKER IN THE DRIVER'S
17 SIDE WINDOW. WHAT IS THAT A STICKER OF?

18 A. THE TOP STICKER IS A STICKER OF A RED FIRE HELMET WITH AN
19 F-85, WHICH IS THE DESIGNATION FOR CAMP PENDLETON'S UNION. THE
20 STICKER BELOW IS THE STICKER AFOREMENTIONED: MY COUSIN EDDIE'S
21 LINE-OF-DUTY DEATH IN MARCH OF 2014.

22 Q. I'M GOING TO SHOW YOU WHAT'S BEEN MARKED AS GOVERNMENT'S
23 EXHIBIT 43. DO YOU RECOGNIZE THIS?

24 A. I DO.

25 Q. HOW DO YOU RECOGNIZE THIS?

MARCH 1, 2018

1 **A.** THAT IS MY LAPTOP.

2 **Q.** AND THE STICKER ON THERE, IS THAT THE SAME STICKER THAT IS
3 ON THE TRUCK?

4 **A.** IT IS.

5 **Q.** WHAT IS THE BLACK LINE ACROSS?

6 **A.** THE BLACK LINE DESIGNATES A LINE-OF-DUTY DEATH. AND IT
7 STATES LIEUTENANT EDWARD J. WALSH, JR., BOX 9-1579. THAT WAS
8 THE NINTH ALARM AT BOX 1579 IN BOSTON. UNDERNEATH IS THE DAY
9 OF HIS DEATH, 3/26/2014.

10 **Q.** MARCH 26, 2014. I TAKE IT YOUR COUSIN WAS CLOSE TO YOU?

11 **A.** MY COUSIN WAS VERY CLOSE TO ME.

12 **Q.** NOW, DID YOU GO TO HIS FUNERAL IN 2014?

13 **A.** I ABSOLUTELY WENT TO HIS FUNERAL. IN FACT, I COME FROM A
14 LARGE ---

15 **MS. CABRAL:** OBJECTION, YOUR HONOR.

16 **THE COURT:** HOLD ON. YOU'VE ANSWERED THE QUESTION.

17 JUST ANSWER THE QUESTION SPECIFICALLY. NO SPEECHES.

18 **Q.** (**BY MR. CARLOS**): WHERE WAS THE FUNERAL?

19 **A.** THE FUNERAL WAS IN WATERTOWN, MASSACHUSETTS.

20 **Q.** AND THAT WAS IN 2014?

21 **A.** THAT'S CORRECT.

22 **Q.** NOW, THE COMPUTER THAT YOU SEE, THAT YOU IDENTIFIED HERE,
23 WAS THAT YOUR PERSONAL COMPUTER?

24 **A.** IT WAS.

25 **Q.** AND WAS IT PASSWORD-PROTECTED?

MARCH 1, 2018

1 **A.** IT WAS PASSWORD-PROTECTED WITH THE LAST FOUR OF MY SOCIAL
2 SECURITY NUMBER.

3 **Q.** THAT WAS YOUR CODE TO GET IN?

4 **A.** EXCUSE ME?

5 **Q.** THAT WAS YOUR CODE TO GET IN?

6 **A.** TO GET INTO THE SCREENSAVER. AND THAT WAS THE LEVEL OF
7 SECURITY TO GET INTO THE COMPUTER.

8 **Q.** AND THE COMPUTER, WHEN IT WAS AT HOME, WHERE WAS IT
9 STORED?

10 **A.** IN VARIOUS PLACES WITHIN THE HOUSE. IF I HAD IT AT WORK
11 THE NIGHT BEFORE, I WOULD LEAVE IT ON THE KITCHEN TABLE OR THE
12 KITCHEN COUNTER. IT COULD HAVE WENT UPSTAIRS WITH ME, BUT
13 GENERALLY DOWNSTAIRS.

14 **Q.** WOULD YOU TAKE THE COMPUTER TO WORK?

15 **THE WITNESS:** IF I CAN EXPOUND ON THIS, YOUR HONOR?

16 **THE COURT:** IT'S A YES OR NO QUESTION.

17 **THE WITNESS:** YES, I WOULD.

18 **Q.** (**BY MR. CARLOS**): WHAT OCCASIONS WOULD YOU TAKE IT TO
19 WORK?

20 **A.** PRIOR TO THE MILITARY SEQUESTER, WHEN WE HAD PUBLIC
21 INTERNET ON BASE, I WOULD TAKE THE COMPUTER WITH ME IN ORDER TO
22 FACILITATE MY WORK DURING THE EVENING.

23 AFTER THE MILITARY SEQUESTER, THE INTERNET CONNECTION
24 WAS YANKED OUT OF THERE. THE LAPTOP BECAME A PAPERWEIGHT SO I
25 DID NOT TAKE IT TO WORK ANYMORE.

MARCH 1, 2018

1 **MR. CARLOS:** YES, YOUR HONOR.

2 (EXHIBIT NO. A MARKED FOR IDENTIFICATION)

3 **Q.** (BY MR. CARLOS): DO YOU RECOGNIZE THIS?

4 **A.** ABSOLUTELY.

5 **Q.** HOW DO YOU RECOGNIZE THIS BAG?

6 **A.** I BOUGHT THIS ON AMAZON.

7 **Q.** WHAT WAS THIS BAG USED FOR?

8 **A.** TO CARRY THIS COMPUTER.

9 **Q.** THAT WOULD BE WITH THE HANDLE INTACT?

10 **A.** INTACT, CORRECT.

11 **Q.** WHEN DID YOU BUY THIS PARTICULAR BAG?

12 **A.** I HAVE GONE THROUGH A FEW BAGS FOR THE COMPUTER. THE
13 AMAZON BAGS SEEM TO BE NOT THE GREATEST OF QUALITY. WHENEVER
14 THE HANDLE WOULD START TO RIP, I WOULD BUY A NEW BAG.

15 **Q.** SO, ONCE AGAIN, THE BAG THAT WAS IN THE ROOM WAS NOT THE
16 BAG USED TO CARRY THAT PARTICULAR COMPUTER?

17 **A.** THAT'S CORRECT.

18 **Q.** SO LET'S TALK ABOUT YOUR WORK SCHEDULE. GENERALLY -- AND
19 LET'S GO INTO 2015 -- WHAT WAS YOUR WORK SCHEDULE LIKE, JUST ON
20 A GIVEN WEEK?

21 **A.** I WOULD WORK TWO DAYS ON, FROM 7:00 AT NIGHT 'TILL 7:00 IN
22 THE MORNING, BE IT A MONDAY, TUESDAY. I WOULD BE OFF FOR TWO
23 DAYS AND WORK THE NEXT THREE DAYS ON.

24 THE FIRST DAY OF THAT WEEK I WOULD HAVE AN OVERTIME
25 SHIFT. SO I WOULD HAVE EIGHT HOURS ON THE TIME CARD UP ABOVE,

MARCH 1, 2018

1 **A.** THAT'S CORRECT.

2 **Q.** YOU DIDN'T HAVE YOUR COMPUTER?

3 **A.** THAT'S CORRECT.

4 **Q.** HOW LONG WERE YOU IN BOSTON FOR?

5 **A.** FOR THE WEEK.

6 **Q.** DO YOU REMEMBER WHEN YOU RETURNED?

7 **A.** I BELIEVE IT WAS THE 28TH OF MARCH -- THE 28TH OR THE
8 29TH. I'M NOT SURE.

9 **Q.** ALL RIGHT. SO THE WORK SCHEDULE HAD YOU ESSENTIALLY DOING
10 12-HOUR SHIFTS, WITH BOTH A REGULAR SHIFT PLUS OVERTIME?

11 **A.** THAT'S CORRECT.

12 **Q.** SO TO GO TO YOUR ONE SHIFT, IT WENT FROM WHAT TIME TO WHAT
13 TIME?

14 **A.** THE SHIFT STARTED AT 1900, WHICH IS SEVEN AT NIGHT UNTIL
15 07 IN THE MORNING, 7:00 IN THE MORNING.

16 **Q.** SO PRIOR TO STARTING YOUR SHIFT, WHEN DO YOU START
17 PREPARING TO GO TO WORK?

18 **A.** 1630, 4:30 OR SO.

19 **Q.** 4:30?

20 **A.** 4:30.

21 **Q.** SO 4:30 IN THE AFTERNOON. WHEN DO YOU -- WELL, HOW LONG
22 DOES IT TAKE YOU TO GET TO PENDLETON?

23 **A.** IT VARIES. AT THE MOST, 40 MINUTES. AT THE LEAST, 22
24 MINUTES.

25 **Q.** AND SO IN ORDER TO -- IF YOU'RE GOING TO GO TO YOUR SHIFT,

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1 WHAT TIME WOULD YOU LEAVE?

2 **A.** REGULARLY, I WOULD LEAVE AT 1740, OR 5:40 P.M. AT
3 NIGHTTIME.

4 **Q.** WHAT WOULD YOU DO?

5 **A.** I WOULD GO TO ALBERTSONS TO GET MY LUNCH AND BREAKFAST.
6 THERE WAS NO CAFETERIA AT THE DISPATCH CENTER.

7 **Q.** SO THAT WOULD BE -- FOR THAT REASON, YOU WOULD LEAVE A
8 LITTLE EARLIER?

9 **A.** THAT'S CORRECT.

10 **Q.** AND THEN GO TO WORK?

11 **A.** THAT'S CORRECT.

12 **Q.** AND THEN AT WORK YOUR SHIFT GOES THROUGH THE 12 HOURS AS
13 DISPATCH?

14 **A.** THAT'S CORRECT.

15 **Q.** AND THEN SEVEN IN THE MORNING YOU'RE ON YOUR WAY HOME,
16 RIGHT?

17 **A.** THAT'S CORRECT. SEVEN OR DEPENDING UPON WHAT HAD
18 TRANSPRIRED THAT EVENING, THERE IS A PASS DOWN TO BE DONE TO THE
19 NEXT SHIFT COMING ON. SO IF WE HAD AN INCIDENT, IT WOULD TAKE
20 ME LONGER TO GET OUT OF THERE THAN 7:00. YOU JUST DON'T LEAVE
21 AT SEVEN.

22 **Q.** SO GIVE OR TAKE 20 MINUTES ON THAT?

23 **A.** CORRECT.

24 **Q.** SO ABOUT 7:20 YOU ARE LEAVING PENDLETON. HOW LONG DOES IT
25 TAKE YOU TO GET BACK?

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WALSH - DIRECT BY CARLOS

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1 **A.** NO. IF I JUST GET OFF DUTY AND I KNOW I'M WORKING THAT
2 EVENING, I TRY TO DO MY BEST TO GET TO SLEEP.

3 **Q.** HOW MANY HOURS OF SLEEP ARE YOU NORMALLY GOING TO GET IN
4 BETWEEN SHIFTS?

5 **A.** SIX HOURS. IF I'M LUCKY, SIX HOURS OF SLEEP TIME. I
6 MEAN, I MAY BE LAYING IN BED FOR EIGHT HOURS, BUT SIX HOURS OF
7 SLEEP TIME.

8 **Q.** SO DO YOU EVER GO ANYWHERE WITH FRIENDS FROM WORK AFTER
9 YOUR SHIFT?

10 **A.** ON OCCASION. OR I WOULD HAVE FRIENDS COME OVER TO MY
11 HOUSE.

12 **Q.** AND SO THEY WOULD BE -- YOU WOULD BE ENTERTAINING PEOPLE
13 AT YOUR HOUSE?

14 **A.** BOTH THERE OR WE WOULD GO TO THE VISTA VILLAGE PUB. THAT
15 WAS MY HANGOUT.

16 **Q.** SO THE VISTA VILLAGE PUB, WHERE IS THAT LOCATED?

17 **A.** AT 225 MAIN STREET IN VISTA.

18 **Q.** SO THERE ARE TIMES YOU WOULD ACTUALLY BE THERE BEFORE YOU
19 MADE IT HOME TO GET A COUPLE HOURS SLEEP?

20 **A.** THERE WERE TIMES THAT I WENT TO THE VISTA VILLAGE PUB OR
21 SOME OTHER TYPE OF DRINKING FACILITY BEFORE I WENT HOME, YES.

22 **Q.** HOW LONG PRIOR TO APRIL 2016 (SIC) HAD YOU HAD THIS SET
23 SCHEDULE FOR WORK?

24 **A.** EIGHT YEARS. I HAVE BEEN ON THE NIGHT SHIFT FOR AS LONG
25 AS I CAN REMEMBER. NO ONE LIKES TO GO ON THE NIGHT SHIFT. YOU

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1 YOU?

2 A. HE ASKED ME A NUMBER OF QUESTIONS WHICH WERE DIFFERENT
3 FROM WHAT WAS RELAYED YESTERDAY.

4 Q. WHAT DID HE ASK YOU?

5 A. THE FIRST QUESTION WAS HOW FAR --- WELL, THE FIRST QUESTION
6 WITHIN OUR MOVEMENT IS HE SAID HOW FAR IS THE PARK OVER THERE,
7 INQUIRING HOW FAR THE PARK WAS, LOOKING OUT THE WINDOW.

8 Q. WHAT DID YOU RESPOND?

9 A. I SAID 30 FEET, AS FAR AS THE CROW FLIES.

10 Q. WHAT ELSE DID HE ASK YOU?

11 A. HE ASKED ME IF I HAD ANY ENEMIES IN THE NEIGHBORHOOD.

12 Q. AND WHAT DID YOU RESPOND?

13 A. I TOLD HIM THAT THE NEXT-DOOR NEIGHBOR DIRECTLY TO MY
14 NORTH, THAT I WASN'T FRIENDLY WITH. AND THEN IT SKIPPED A
15 HOUSE, AND THEN THE NEXT-DOOR NEIGHBOR ABOVE HIM I WASN'T
16 FRIENDLY WITH.

17 Q. WHAT ELSE DID HE ASK YOU?

18 A. HE HAD ASKED ME -- HE HAD ASKED ME IF I WAS AWARE THAT
19 LIMEWIRE OR LIME PRO WAS ON MY COMPUTER.

20 Q. WHAT DID YOU TELL HIM?

21 A. I TOLD HIM ABSOLUTELY, I WAS AWARE OF THAT.

22 Q. DID YOU GET LIMEWIRE FOR THE COMPUTER?

23 A. I DID.

24 Q. WHY DID YOU GET LIMEWIRE?

25 A. WE GOT LIMEWIRE AFTER USING BITTORRENT AND GETTING A

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1 COMPLAINT FOR A COPYRIGHT INFRINGEMENT. SO WE DECIDED TO USE
2 LIMEWIRE TO DOWNLOAD MOVIES THAT WAY.

3 Q. THE RECEIPT THAT WAS SHOWN IN COURT EARLIER BY THE
4 GOVERNMENT INDICATES UNLIMITED MOVIES?

5 A. THAT IS CORRECT.

6 Q. IS THAT THE REASON YOU HAD LIMEWIRE?

7 A. THAT IS CORRECT.

8 Q. THE REASON YOU HAD BITTORRENT?

9 A. THAT IS CORRECT.

10 Q. DO YOU RECALL THE DETECTIVE INDICATING THAT YOU HAD SAID
11 THAT YOU HAD DOWNLOADED AMERICAN SNIPER?

12 A. HE DID.

13 Q. DID YOU DO THAT?

14 A. I DID.

15 Q. DID YOU DOWNLOAD ANY CHILD PORNOGRAPHY?

16 A. ABSOLUTELY NOT.

17 Q. HAVE YOU EVER VIEWED ANY CHILD PORNOGRAPHY ON YOUR
18 COMPUTER?

19 A. ABSOLUTELY NOT.

20 Q. HAVE YOU EVER VIEWED CHILD PORNOGRAPHY ON ANY EXTERNAL
21 HARD DRIVE?

22 A. ABSOLUTELY NOT.

23 Q. HAVE YOU EVER VIEWED PORNOGRAPHY ON ANY HAND-HELD DEVICES?

24 A. ABSOLUTELY NOT.

25 Q. ON ANY TABLETS?

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1 **THE WITNESS:** YOUR HONOR, I NEED TO ANSWER THE
2 QUESTION. I CAN'T SAY YES OR NO.

3 **THE COURT:** I'M AMAZED YOU CAN'T SAY YES OR NO. YOU
4 EITHER DID OR DIDN'T. IF AN EXPLANATION IS CALLED FOR, YOUR
5 LAWYER CAN ASK FOR IT. DO YOU UNDERSTAND THE QUESTION?

6 **THE WITNESS:** I DON'T, BECAUSE I KNOW WHERE MAY 2ND
7 FALLS.

8 **THE COURT:** THAT WASN'T THE QUESTION, BUT DO YOU WANT
9 TO ASK AGAIN OR ASK SOMETHING ELSE?

10 **MS. CABRAL:** THAT'S FINE. WE'LL LEAVE IT.

11 **Q.** (BY MS. CABRAL): YOU TALKED ABOUT -- FIRST OF ALL, YOU
12 HAVE BEEN HERE THROUGHOUT THE TRIAL, CORRECT?

13 **A.** ABSOLUTELY.

14 **Q.** SO YOU HAVE LISTENED TO ALL THE TESTIMONY?

15 **A.** I HAVE.

16 **Q.** YOU LISTENED TO ALL THE WITNESSES' STATEMENTS?

17 **A.** EVERY ONE OF THEM.

18 **Q.** YOU LOOKED AT ALL THE EVIDENCE THAT HAS BEEN ADMITTED?

19 **A.** WITH THE EXCEPTION OF THE VIDEOS THAT WERE PLAYED THE
20 OTHER DAY.

21 **Q.** AND YOU INDICATE YOU PURCHASED LIMEWIRE, CORRECT?

22 **A.** I DID.

23 **Q.** AND YOU PURCHASED BITTORRENT, CORRECT?

24 **A.** I DID.

25 **Q.** AND YOU DOWNLOADED THOSE ONTO YOUR COMPUTER?

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1 **A.** I DID.

2 **Q.** AND WHEN YOU DOWNLOADED THOSE ONTO YOUR COMPUTER, THERE
3 WAS AN ICON ON YOUR COMPUTER, CORRECT?

4 **A.** I BELIEVE THAT'S STANDARD WITH THE DOWNLOAD, YES.

5 **Q.** AND SO, FOR EXAMPLE, WHEN YOU WANTED TO USE BITTORRENT,
6 YOU HAD TO CLICK ON THAT ICON TO OPEN IT; IS THAT CORRECT?

7 **A.** I WOULD IMAGINE SO.

8 **Q.** SO WHEN YOU WANTED TO SEARCH FOR *AMERICAN SNIPER*, YOU HAD
9 TO INSERT SEARCH TERMS THAT WOULD GET YOU *AMERICAN SNIPER*; IS
10 THAT CORRECT?

11 **A.** IT IS CORRECT.

12 **Q.** AND WHEN YOU GOT A LIST OF FILES, YOU HAD TO CLICK ON THAT
13 AND DOWNLOAD IT; IS THAT CORRECT?

14 **A.** THAT'S CORRECT.

15 **Q.** AND YOU DID THAT WITH REGARD TO BITTORRENT?

16 **A.** MY SON DID THAT IN REGARD TO BITTORRENT, BUT, YES, I WAS
17 IN COMPANY WITH MY SON.

18 **Q.** AND YOU UNDERSTOOD THAT THAT'S HOW THAT PROGRAM WORKED?
19 YOU HAD TO CLICK ON IT TO DOWNLOAD IT TO YOUR COMPUTER,
20 CORRECT?

21 **A.** IT WAS THE FIRST TIME USING THAT, YES.

22 **Q.** YOU UNDERSTOOD YOU DOWNLOADED -- LET ME ASK YOU THIS: YOU
23 PAID FOR BITTORRENT, CORRECT?

24 **A.** WE DID.

25 **Q.** AND YOU PAID TO PURCHASE LIMEWIRE, CORRECT?

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1 A. WE DID.

2 Q. AND LIMEWIRE COST ABOUT \$54, CORRECT?

3 A. OKAY. I'M NOT SURE. IT'S BEEN A LONG TIME.

4 Q. OKAY. AND YOU ALSO PAID MONEY FOR BITTORRENT, CORRECT?

5 A. I BELIEVE SO.

6 Q. AND YOU UNDERSTOOD -- YOU MENTIONED THAT YOU GOT AN EMAIL
7 FROM COX ABOUT HAVING DOWNLOADED *AMERICAN SNIPER*, CORRECT?

8 A. WE DID. MY WIFE DID.

9 Q. AND THAT WAS ILLEGAL, CORRECT?

10 A. WE WERE WARNED WITH A COPYRIGHT INFRINGEMENT.

11 Q. AND YOU UNDERSTOOD THAT DOWNLOADING MOVIES WAS ILLEGAL?
12 YOU UNDERSTOOD THAT?

13 A. NO.

14 Q. YOU UNDERSTOOD IT WAS A PIRATED COPY?

15 A. I DID UNDERSTAND IT WAS PIRATED COPY. WELL, AT THE TIME I
16 DIDN'T REALIZE IT WAS A PIRATED COPY.

17 Q. YOU UNDERSTOOD THAT YOU WEREN'T GOING TO WAL-MART TO
18 PURCHASE *AMERICAN SNIPER*?

19 A. THAT'S CORRECT.

20 Q. YOU UNDERSTOOD THAT YOU WEREN'T GOING TO NETFLIX?

21 A. THAT'S CORRECT.

22 Q. YOU UNDERSTOOD YOU WEREN'T WATCHING IT ON HBO THAT YOU HAD
23 PAID FOR?

24 A. ABSOLUTELY.

25 Q. YOUR WIFE DIDN'T DOWNLOAD *AMERICAN SNIPER*, DID SHE?

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1 **A.** MY SON DID.

2 **Q.** YOU TALKED ABOUT THE STATEMENTS. I WANT TO GO BACK TO
3 THIS. YOU KEEP SAYING THAT YOUR SON DOWNLOADED THIS. YOU USED
4 BITTORRENT ON YOUR COMPUTER, CORRECT?

5 **A.** WE PUT BITTORRENT ON MY COMPUTER, YES.

6 **Q.** AND YOU USED IT OFTEN?

7 **A.** NO, NOT OFTEN. ONE TIME.

8 **Q.** OKAY. BUT YOU USED LIMEWIRE ON YOUR COMPUTER, CORRECT?

9 **A.** I DID NOT USE LIMEWIRE. LIMEWIRE WAS USED. I DON'T KNOW
10 IF LIMEWIRE WAS USED, TO TELL YOU THE TRUTH.

11 **Q.** YOU KNEW YOU HAD AN ICON?

12 **A.** I ABSOLUTELY KNEW THERE WAS ICON THERE.

13 **Q.** OKAY. FAIR ENOUGH.

14 YOU TALKED ABOUT THE STATEMENTS THAT YOU HAD MADE TO
15 DETECTIVE JACKSON ON THE DAY OF THE SEARCH WARRANT. WHEN THEY
16 FIRST GOT THERE, THEY TOLD YOU WHY THEY WERE THERE, CORRECT?

17 **A.** AFTER THEY HANDCUFFED ME, THEY DID.

18 **Q.** AND THEY TOLD YOU -- THEY GAVE YOU A COPY OF THE SEARCH
19 WARRANT -- THEY READ IT TO YOU?

20 **A.** THEY READ ME A COPY, YES.

21 **Q.** SO YOU KNEW WHEN THEY CAME IN THAT THEY WERE LOOKING FOR
22 CHILD PORNOGRAPHY, CORRECT?

23 **A.** I DID NOT KNOW THAT WHEN THEY CAME IN, NO.

24 **Q.** WHEN THEY READ THE SEARCH WARRANT TO YOU, YOU KNEW THEY
25 WERE LOOKING FOR CHILD PORNOGRAPHY?

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1 A. THAT IS NOT CORRECT.

2 Q. YOU TOLD DETECTIVE JACKSON THAT --- LET ME BACK UP.

3 YOU DIDN'T TELL DETECTIVE JACKSON, AT THAT POINT IN
4 TIME, THAT YOUR SON BILLY HAD BEEN AROUND THE HOUSE?

5 A. I ABSOLUTELY DID TELL DETECTIVE JACKSON THAT.

6 Q. YOU DIDN'T TELL HIM, AT THAT POINT IN TIME, THAT ALL OF
7 BILLY'S FRIENDS HAD HAD ACCESS TO THE HOUSE?

8 A. I DID NOT. THERE WERE NO DATES MENTIONED DURING THAT TIME
9 SO I HAD NO IDEA WHAT THE TIME FRAME WAS. ALL I KNEW, IT WAS
10 EARLIER IN THE YEAR.

11 MS. CABRAL: MOTION TO STRIKE AS NONRESPONSIVE.

12 THE COURT: THE JURY WILL DISREGARD THE LAST COMMENT.
13 THE MOTION TO STRIKE IS GRANTED.

14 JUST ANSWER THE QUESTION SPECIFICALLY, SIR.

15 GO AHEAD, MS. CABRAL.

16 Q. (BY MS. CABRAL): ON THE DATE THE SEARCH WARRANT WAS
17 EXECUTED YOU TOLD DETECTIVE JACKSON --- LET ME BACK UP.

18 YOU RECOGNIZE THE COMPUTER THAT WE HAVE SEEN TODAY?

19 A. YES, MA'AM.

20 Q. IT'S AN IMPORTANT COMPUTER TO YOU; IS THAT CORRECT?

21 A. I THINK ALL MY COMPUTERS ARE IMPORTANT TO ME, YES, MA'AM.

22 Q. AND JUST SHOWING YOU EXHIBIT 43, THAT IS THE COMPUTER THAT
23 WE'RE TALKING ABOUT, CORRECT?

24 A. YES, MA'AM.

25 Q. AND YOU TOLD DETECTIVE JACKSON THAT WAS YOUR COMPUTER,

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1 A. YES, MA'AM.

2 Q. AND AT HOTMAIL.COM?

3 A. I CAPTURED THEM ALL, YES, MA'AM.

4 Q. OUTLOOK?

5 A. YES, MA'AM.

6 Q. I THINK I'M MISSING SOME. GMAIL?

7 A. YES, MA'AM.

8 Q. AND THEN WILLIAMWALSH@USMC.MAIL?

9 A. MY GOVERNMENT EMAIL, YES, MA'AM.

10 Q. AND YOU HAD ALL THESE EMAIL ACCOUNTS?

11 A. YES, MA'AM.

12 Q. AND YOU USED THE COMPUTER TO ACCESS FACEBOOK?

13 A. YES, MA'AM. ON OCCASIONS, YES.

14 Q. YOU USED THE COMPUTER TO ACCESS THE WEBSITE

15 RADIOPREFERENCE.COM?

16 A. ABSOLUTELY.

17 Q. AND THAT'S A RADIO TYPE RELATED TO -- FOR EXAMPLE, YOU'RE

18 A DISPATCHER; IS THAT CORRECT?

19 A. YES. AND, MORE IMPORTANTLY, TO PROGRAM THE HIGH TECH FIRE

20 RADIO.

21 Q. AND YOU USED YOUR LAPTOP COMPUTER TO ACCESS TURBO TAX?

22 A. I DID NOT.

23 Q. YOU DIDN'T USE THE COMPUTER TO FILE YOUR PERSONAL TAX

24 RETURNS?

25 A. MY SON FILED HIS PERSONAL TAX RETURNS ON THAT COMPUTER.

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1 **Q.** YOUR SON FILED THOSE?

2 **A.** YES, MA'AM.

3 **Q.** WHAT IS YOUR SON'S MIDDLE INITIAL?

4 **A.** F, FRANCIS. HE IS THE FIFTH.

5 **Q.** HE IS THE FIFTH, RIGHT?

6 **A.** YES, MA'AM.

7 **Q.** SO WHEN WE TALK ABOUT ALL THE EMAIL ADDRESSES, THOSE
8 WEREN'T YOUR SON'S EMAIL ADDRESSES?

9 **A.** THE IV WOULD HAVE BEEN MINE.

10 **Q.** SO ALL THE EMAILS ADDRESSED AS WFWIV, THOSE WERE ALL YOUR
11 EMAIL ADDRESSES?

12 **A.** YES, MA'AM.

13 **Q.** AND YOU HAD A PASSWORD ON THAT COMPUTER, CORRECT?

14 **A.** I HAD A FOUR-DIGIT PASSWORD ON THE COMPUTER, YES, MA'AM.

15 **Q.** AND IT WAS THE LAST FOUR OF YOUR SOCIAL, CORRECT?

16 **A.** YES, MA'AM.

17 **Q.** IT WASN'T THE INITIALS OF YOUR KIDS, WAS IT?

18 **A.** NO, MA'AM.

19 **Q.** AND YOU HAD A LOT OF PERSONAL INFORMATION ON THAT
20 COMPUTER, CORRECT?

21 **A.** ABSOLUTELY.

22 **Q.** IS THAT FAIR TO SAY?

23 **A.** SURE.

24 **Q.** AND SO YOU DIDN'T -- WELL, PERSONAL INFORMATION THAT YOU
25 WOULDN'T FREELY WANT TO GIVE A LOT OF PEOPLE ACCESS TO; IS THAT

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1 FAIR TO SAY?

2 A. THAT'S FAIR TO SAY.

3 Q. SO YOU TALKED ABOUT THE FACT THAT -- I THINK YOU SAID THAT
4 YOUR LAPTOP WAS A PAPERWEIGHT, LEAD PAPERWEIGHT?

5 A. YES, MA'AM.

6 Q. AND YOU DIDN'T CARRY IT BACK AND FORTH PLACES WITH YOU?

7 A. THAT'S CORRECT.

8 Q. WHY DID YOU NEED A MESSENGER BAG?

9 A. I'M SORRY?

10 Q. YOU TALKED ABOUT THE FACT THAT YOU WENT THROUGH LOTS OF
11 MESSENGER BAGS BECAUSE THEY KEPT BREAKING, CORRECT?

12 A. YES, MA'AM.

13 Q. BUT YOU DIDN'T TAKE YOUR COMPUTER PLACES WITH YOU.

14 A. FOR THE PROTECTION OF THE COMPUTER.

15 Q. SO YOU PUT IT IN THERE, BUT YOU DIDN'T CARRY IT AROUND
16 WITH YOU?

17 A. CORRECT.

18 Q. BUT YOU STILL WOULD WEAR OUT THE BAG QUICKLY?

19 A. IF THE COMPUTER HAD TO BE TRANSFERRED SOMEWHERE IN THE
20 HOUSE, IT HAD TO BE IN A BAG SO IT WASN'T DROPPED AND BROKEN ON
21 THE FLOOR, SO, YES.

22 Q. BUT YOU TALKED ABOUT A HANDLE BEING RIPPED OFF OF THE BAG,
23 BUT THAT WOULD HAVE BEEN REGULAR USE, CARRYING IT UPSTAIRS AND
24 DOWNSTAIRS, AND NOT CARRYING IT TO WORK OR ANYTHING LIKE THAT
25 WITH YOU?

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1 **A.** WHEN I TOOK THE COMPUTER TO WORK BEFORE THIS MILITARY
2 SEQUESTER, THE COMPUTER WAS IN THE BAG AND IN OPERATION QUITE A
3 BIT. THAT IS WHERE THE BROKEN STRAPS CAME FROM.

4 **Q.** YOU SAY YOU DIDN'T USE LIMEWIRE, CORRECT?

5 **A.** I PERSONALLY DID NOT USE LIMEWIRE.

6 **Q.** BUT YOU PAID \$54 TO PURCHASE IT, RIGHT?

7 **A.** YES, MA'AM.

8 **Q.** AND YOU SAY THAT YOU ONLY USED THE BITTORRENT THE ONE
9 TIME?

10 **A.** YES, MA'AM.

11 **Q.** BUT YOU PAID PROBABLY ABOUT \$55 FOR THAT; IS THAT CORRECT?

12 **A.** IF THAT IS THE GOING PRICE OF THEM, YES, MA'AM.

13 **Q.** BUT YOU COULD HAVE GONE TO WAL-MART TO PURCHASE AMERICAN
14 SNIPER FOR \$10; IS THAT RIGHT?

15 **A.** COULD'VE, WOULD'VE. I DIDN'T.

16 **MS. CABRAL:** JUST A MOMENT, YOUR HONOR.

17 **THE COURT:** SURE.

18 **MS. CABRAL:** NOTHING FURTHER.

19 **THE COURT:** OKAY. MR. CARLOS, ANYTHING ELSE?

20 **REDIRECT EXAMINATION**

21 **BY MR. CARLOS:**

22 **Q.** SO YOU DIDN'T USE THE TURBO TAX ON YOUR COMPUTER, CORRECT?

23 **A.** THAT'S CORRECT.

24 **Q.** WHO LOADED THE TURBO TAX?

25 **A.** I ORDERED THE TURBO TAX SO MY SON COULD DO HIS TAXES. IN

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1 FACT, I MIGHT HAVE DONE HIS TAXES FOR HIM THAT YEAR. I'M NOT
2 SURE.

3 Q. BUT THEY WERE FOR HIM?

4 A. CORRECT.

5 Q. AND THE LIMEWIRE, HOW MANY TIMES DO YOU THINK YOU USED THE
6 LIMEWIRE?

7 A. I DON'T RECALL USING THE LIMEWIRE AFTER IT WAS INSTALLED.

8 Q. SO WHAT DOWNLOADED *AMERICAN SNIPER*? WAS IT BITTORRENT?

9 A. BITTORRENT.

10 Q. AND YOU SAID YOU GOT SOME TYPE OF NOTIFICATION THAT YOU
11 HAD ENGAGED IN ILLEGAL ACTIVITY FROM DOWNLOADING --

12 A. A COPYRIGHT INFRINGEMENT FROM COX COMMUNICATIONS, FROM
13 UNIVERSAL STUDIOS.

14 Q. AND THEN YOU STOPPED?

15 A. WE WERE GIVEN A DEMAND FROM COX TO DELETE IT, WHICH MY
16 WIFE DID IMMEDIATELY, AND RESPONDED BACK TO COX THAT WE HAD
17 DONE SO.

18 Q. YOU WERE ASKED ON CROSS-EXAMINATION ABOUT A FACEBOOK
19 ACCOUNT?

20 A. YES, SIR.

21 Q. DID YOU HAVE A FACEBOOK ACCOUNT?

22 A. I DID.

23 Q. DID YOU HAVE AN INSTAGRAM ACCOUNT?

24 A. I DID NOT.

25 Q. HOW ABOUT A LINKEDIN ACCOUNT? DID YOU HAVE THAT?

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1 HAVE ALL OF THE ARES DOWNLOADS, EXHIBIT 21. AND DID YOU HAVE A
2 WAY FROM THE COMPUTER TO DETERMINE THE IP ADDRESS FROM WHICH
3 ALL OF THESE DOWNLOADS WERE MADE?

4 **A.** YES.

5 **Q.** THE DOWNLOADS IN THE ARES FOLDER?

6 **A.** OH, THE DOWNLOADS THAT WERE MADE FROM ARES WENT TO THE
7 COMPUTER. I'M SORRY. THE SPECIFIC IP ADDRESSES THAT THEY WERE
8 FROM, NO. THERE WAS NO WAY OF DETERMINING THAT THROUGH THE
9 REPORT.

10 **Q.** AND LET ME ASK YOU THIS ANOTHER WAY BECAUSE I THINK THIS
11 IS WHAT YOU WERE THINKING ABOUT. THE FILES THAT YOU DOWNLOADED
12 FROM THE DEFENDANT'S HOME ---

13 **A.** YES.

14 **Q.** -- DO YOU KNOW THE IP ADDRESS THAT YOU DOWNLOADED THOSE
15 FROM?

16 **A.** YES.

17 **Q.** OKAY. BUT THERE WAS NO WAY -- AM I CORRECT, WAS THERE ANY
18 WAY FOR YOU TO TELL FROM THE COMPUTER THE IP THAT THESE WERE
19 DOWNLOADED FROM, ONTO THE COMPUTER?

20 **A.** NO, THERE IS NO WAY OF DETERMINING THAT.

21 **Q.** SO YOU CAN'T SAY WITH ANY CERTAINTY THAT THESE WERE
22 DOWNLOADED AT THAT HOUSE; IS THAT CORRECT?

23 **A.** CORRECT.

24 **Q.** SO IF THE LAPTOP HAD BEEN TAKEN SOMEWHERE ELSE, COULD IT
25 HAVE BEEN USED SOMEWHERE ELSE TO DOWNLOAD INTO THIS FOLDER?

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1 **A.** ABSOLUTELY.

2 **Q.** I BELIEVE THAT WE LOOKED AT EXHIBIT 37. IF WE COULD LOOK
3 AT THAT. I THINK THAT YOU TESTIFIED ABOUT THE NUMBER OF TIMES
4 THAT BITTORRENT HAD BEEN ACCESSED ON THE LAPTOP; IS THAT
5 CORRECT?

6 **A.** CORRECT.

7 **Q.** SO BASED ON EXHIBIT 37, HOW FREQUENTLY WAS BITTORRENT
8 ACCESSED ON THE COMPUTER?

9 **A.** BITTORRENT WAS RUN ON THE COMPUTER A TOTAL OF 61 TIMES.

10 **Q.** WHAT ABOUT LIME PRO OR LIMEWIRE?

11 **A.** THE LIME PRO PROGRAM WAS RUN 55 TIMES ON THE COMPUTER.

12 **Q.** SO IT WAS RUN 55 TIMES ON THAT COMPUTER?

13 **A.** THAT'S CORRECT.

14 **Q.** AND JUST SCANNING BACK OUT, I SEE THAT THERE ARE A NUMBER
15 OF DATES THAT ARE LISTED ACROSS THIS REPORT. WHAT DOES THAT
16 REPRESENT?

17 **A.** THIS REPORT IS A SNAPSHOT FROM THE PREFETCH FILES IN THE
18 COMPUTER. AND WHAT THE PREFETCH FILES WILL DO IS THEY WILL
19 CATALOG THE LAST EIGHT INSTANCES THAT A PROGRAM WAS RUN ON THE
20 DEVICE. SO WHAT THIS WILL SHOW IS HISTORICALLY THE LAST EIGHT
21 TIMES THAT THESE PARTICULAR PROGRAMS WERE EXECUTED AND RUN ON
22 THAT LAPTOP COMPUTER.

23 **Q.** SO THEN WHEN WAS THE LAST TIME BITTORRENT WAS RUN?

24 **A.** IF YOU CAN -- IF I COULD SEE THE FULL -- SO IT WOULD BE --

25 **Q.** IS IT EASIER IF WE JUST PAN OUT COMPLETELY?

MARCH 1, 2018

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

3 UNITED STATES OF AMERICA,) VOLUME 3-A
4)
5 PLAINTIFF,) CASE NO. 17CR1269-AJB
6)
7 -V-)
) MARCH 1, 2018
WILLIAM FRANCIS WALSH IV,) 11:38 A.M.
)
DEFENDANT.) SAN DIEGO, CALIFORNIA
)

PARTIAL TRANSCRIPT OF JURY TRIAL

BEFORE THE HONORABLE ANTHONY J. BATTAGLIA
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT: ADAM L. BRAVERMAN, UNITED STATES ATTORNEY
BY: JANET A. CABRAL, ESQ.
AMANDA GRIFFITH, ESQ.
ASSISTANT U.S. ATTORNEYS
880 FRONT STREET
SAN DIEGO, CALIFORNIA 92101

FOR THE DEFENDANT: BARDSTLEY & CARLOS LLP
BY: MARC X. CARLOS, ESQ.
MEGHAN FOSTER, ESQ.
424 F STREET
SAN DIEGO, CALIFORNIA 92101

OFFICIAL REPORTER: JEANNETTE N. HILL, CSR
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333 WEST BROADWAY, RM 420
SAN DIEGO, CALIFORNIA 92101
(619) 702-3905

REPORTED BY STENOTYPE, TRANSCRIPT PRODUCED BY COMPUTER

MARCH 1, 2018

DEFENSE CLOSING ARGUMENT

45

1 DOESN'T MEAN ANYTHING UNTIL YOU ACTUALLY SIT THERE AND HAVE TO
2 MAKE THAT DECISION. IT REALLY DOESN'T MEAN ANYTHING UNTIL YOU
3 GET TO A PLACE LIKE THIS AND YOU LOOK AT MR. WALSH, AND YOU
4 LOOK AT THE GOVERNMENT, AND YOU LOOK AT WHAT THEY ARE DOING TO
5 HIM AND YOU SAY "YOU'RE INNOCENT UNTIL PROVEN GUILTY."

6 THIS IS THE TIME. THIS IS THE TIME, LADIES AND
7 GENTLEMEN, THAT YOU DO THAT BECAUSE THAT'S WHAT YOUR ROLE IS,
8 YOU KNOW.

9 SO WHAT IS THAT BURDEN? PROOF BEYOND A REASONABLE
10 DOUBT. IT'S SOMETHING THAT YOU CAN BELIEVE IN. IT'S SOMETHING
11 THAT YOU, MAYBE A WEEK OR MAYBE A MONTH FROM NOW, WHENEVER YOU
12 ARE GOING TO DO IT, AND YOU TELL THE STORY TO SOMEBODY THAT YOU
13 HAVE NEVER MET. AND YOU SAY, YOU KNOW WHAT? I SAT ON THIS
14 TRIAL IN FEDERAL COURT. IT INVOLVED SOME CHILD PORNOGRAPHY.
15 IT'S JUST HORRIBLE TO LOOK AT, HORRIBLE.

16 AND I SAW PEOPLE TEARING UP. THAT IS A GOOD REASON
17 TO BE THERE. DURING JURY SELECTION WE TALKED ABOUT THIS.
18 NOBODY SUPPORTS CHILD PORNOGRAPHY. NOBODY LIKES IT. IT'S OUT
19 THERE. THERE IS NOTHING WE CAN DO ABOUT IT.

20 BUT YOU'RE TELLING THE STORY. YOU KNOW, THE GUY, HE
21 WORKED AT THE FIRE DEPARTMENT. HE LIVED WITH HIS WIFE. YOU
22 KNOW, THEY HAD CONFLICTING SCHEDULES, BUT 18 YEARS THEY WERE
23 TOGETHER. THERE WAS A COMPUTER. YOU KNOW, IT DIDN'T HAVE ANY
24 VISIBLE PORNOGRAPHY ON IT, BUT SOMEBODY WAS TAKING -- WAS
25 TRADING FILES FROM IT. AND THAT PERSON MIGHT BE SITTING THERE

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

3 UNITED STATES OF AMERICA,)
4 PLAINTIFF,) CASE NO. 17CR1269-AJB
5 -V-)
6 WILLIAM FRANCIS WALSH IV,) MAY 21, 2018
7 DEFENDANT.) 10:05 A.M
) SAN DIEGO, CALIFORNIA
)

SENTENCING TRANSCRIPT

BEFORE THE HONORABLE ANTHONY J. BATTAGLIA
UNITED STATES DISTRICT JUDGE

15 APPEARANCES:

16 FOR THE GOVERNMENT: ADAM L. BRAVERMAN, UNITED STATES ATTORNEY
17 BY: JANET A. CABRAL, ESQ.
18 AMANDA GRIFFITH, ESQ.
ASSISTANT U.S. ATTORNEYS
880 FRONT STREET
SAN DIEGO, CALIFORNIA 92101

20 FOR THE DEFENDANT: BARDSTLEY & CARLOS LLP
21 BY: MARC X. CARLOS, ESQ.
424 F STREET
SAN DIEGO, CALIFORNIA 92101

22 OFFICIAL REPORTER: JEANNETTE N. HILL, CSR
U.S. COURTHOUSE
23 333 WEST BROADWAY, RM 420
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24 (619) 702-3905

25 REPORTED BY STENOTYPE, TRANSCRIPT PRODUCED BY COMPUTER

MAY 21, 2018

1 SAN DIEGO, CALIFORNIA; MONDAY, MAY 21, 2018; 10:05 A.M.

2 DEPUTY CLERK: CALLING MATTER SIX ON CALENDAR, CASE
3 NUMBER 17CR1269, UNITED STATES OF AMERICA VERSUS WILLIAM
4 FRANCIS WALSH THE IV, ON FOR SENTENCING.

5 MS. CABRAL: GOOD MORNING, YOUR HONOR. JANET CABRAL
6 AND AMANDA GRIFFITH FOR THE UNITED STATES.

7 THE COURT: GOOD MORNING.

8 MR. CARLOS: GOOD MORNING, YOUR HONOR. MARC CARLOS
9 ON BEHALF OF MR. WALSH.

10 THE COURT: GOOD MORNING, SIR.

11 ALL RIGHT. GOOD MORNING, MR. WALSH.

12 THE DEFENDANT: GOOD MORNING, YOUR HONOR.

13 THE COURT: WE HAVE YOU HERE, SIR, FOR SENTENCING ON
14 THE CHILD PORNOGRAPHY CHARGES. THE PROCESS WE FOLLOW IN
15 SENTENCING IS TO CALCULATE THE ADVISORY GUIDELINES FIRST, AND
16 THEN WE TALK ABOUT OTHER FACTORS UNDER THE FEDERAL SENTENCING
17 STATUTE. SO THAT IS HOW WE'LL PROCEED.

18 I DID READ THE BRIEFING DONE BY BOTH SIDES AND, OF
19 COURSE, THE PROBATION SENTENCING REPORT THAT YOU HAVE SEEN
20 THROUGH YOUR LAWYER. I READ THE LETTERS AND SO FORTH.

21 GUIDELINES FIRST, THE CHARGES START AT A BASE OFFENSE
22 LEVEL 22. THAT IS WHERE WE WOULD START ON LOOKING AT THE CHART
23 IF WE HAD IT IN FRONT OF US.

24 FROM THE 22, THERE ARE A NUMBER OF ASSERTED SPECIFIC
25 OFFENSE CHARACTERISTICS, SOME OF WHICH HAVE DRAWN OBJECTION OR

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1 OPPOSITION BY YOUR ATTORNEY, SO WE'LL GO THROUGH THOSE.

2 THE FIRST IS THE PREPUBESCENT MINOR ADD-ON OF TWO
3 LEVELS.

4 NOW, MR. CARLOS, YOU MAKE ARGUMENT ABOUT THAT BUT, AT
5 THE END OF THE DAY, THE JURY FOUND THESE WERE PREPUBESCENT
6 MINORS BASED ON THE EVIDENCE AND THE TESTIMONY. SO WHY SHOULD
7 WE DISREGARD THE JURY'S FINDING AND WHAT IS RELATIVELY OBVIOUS
8 FROM THE PHOTOS, PARENTHETICALLY, AND NOT INCLUDE THAT
9 ADDITION?

10 **MR. CARLOS:** WELL, YOUR HONOR, I DISCUSSED IT WITH
11 MR. WALSH, AND IT'S ONE OF THE THINGS THAT WE WANTED THE COURT
12 TO ADDRESS. QUITE FRANKLY, I AGREE THAT THE JURY DID FIND IT,
13 AND THE PICTURES WERE -- WHAT IS THE WORD I'M LOOKING FOR?
14 UNCOMFORTABLE TO WATCH.

15 BUT OTHER THAN THE DETECTIVE SAYING THEY APPEAR TO BE
16 PREPUBESCENT, THERE REALLY WASN'T ANY EVIDENCE SUBMITTED THAT
17 WOULD SUBSTANTIATE THAT THEY WERE PREPUBESCENT.

18 **THE COURT:** OTHER THAN THE CLIPS THAT WERE SHOWN TO
19 THE JURY, FOR WHICH I RESPECTFULLY DISAGREE. I THINK THE TWO
20 LEVELS ARE WARRANTED HERE. I UNDERSTAND THE ARGUMENT, BUT THE
21 JURY FOUND, BEYOND A REASONABLE DOUBT, THAT FACT. AND I THINK
22 WE EMBRACE THAT AS IS OUR SYSTEM HERE.

23 THE TWO LEVELS FOR THE COMPUTER USE ARE NOT DISPUTED,
24 NOR ARE THE FIVE LEVELS FOR THE NUMBER OF IMAGES. SO TO ADD UP
25 TO THAT POINT, WE HAVE 22, PLUS TWO FOR PREPUBESCENCE, TWO FOR

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1 THE COMPUTER, FIVE FOR THE IMAGES. A TOTAL OF 29.

2 THEN WE GET TO KNOWING DISTRIBUTION. A TWO-LEVEL
3 INCREASE, AGAIN, WHICH THE JURY FOUND BY EVIDENCE BEYOND A
4 REASONABLE DOUBT, THAT THERE WAS KNOWING DISTRIBUTION. HENCE,
5 THE CONVICTION ON THE RESPECTIVE COUNTS.

6 I'D CERTAINLY LET YOU MAKE YOUR ARGUMENT, BUT I FEEL
7 THE JURY'S FINDING IS INDISPUTABLE HERE FOR CALCULATION
8 PURPOSES. BUT YOU MAY ARGUE, CERTAINLY.

9 **MR. CARLOS:** I WILL SUBMIT ON MY MOVING PAPERS. I
10 THINK I OUTLINED IT THERE, WHAT THE DEFENSE POSITION WAS.

11 **THE COURT:** SO BE IT. SO I WILL OVERRULE ANY
12 OBJECTION, ADD TWO LEVELS FOR KNOWING DISTRIBUTION, BRINGING US
13 TO A 31.

14 AND THEN WE GET TO THE LAST OF THE SPECIFIC OFFENSE
15 CHARACTERISTICS SUBMITTED BY THE GOVERNMENT AND PROBATION, THE
16 SADISTIC CONDUCT.

17 AND THERE, MR. CARLOS, YOUR POINTS I WOULD ENCOURAGE
18 AT THIS POINT, AND WE CAN HAVE THE GOVERNMENT RESPOND ON THIS.

19 **MS. CABRAL:** YOUR HONOR, WITH REGARD TO THE
20 FOUR-LEVEL ADJUSTMENT FOR SADISTIC AND MASOCHISTIC CONDUCT, THE
21 CASE LAW IS CLEAR IN THE NINTH CIRCUIT. DEPICTIONS OF VERY
22 YOUNG CHILDREN BEING PENETRATED BY AN ADULT MALE ARE, AS A
23 MATTER OF LAW, HELD TO BE SADISTIC FOR PURPOSES OF THIS
24 ENHANCEMENT.

25 THE COURT WILL RECALL THE ONE VIDEO THAT WAS THE

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1 SUBJECT OF COUNT TWO OF THE INDICTMENT, THE BABY SHI VIDEO,
2 WHICH WAS THE SHORTHAND. IT HAS THE LONGER TITLE. IN THAT
3 VIDEO, THE CHILD -- YOU CAN SEE THAT THE CHILD, WHEN COMPARED
4 TO THE SIZE OF THE ADULT MALE HAND THAT IS ON THE CHILD, IS
5 SUBSTANTIALLY SMALLER. THE NAME OF THE VIDEO IS BABY SHI, AND
6 THE LATER PORTION OF IT IS BABY J. THAT CHILD IS BEING
7 VAGINALLY PENETRATED FORCEFULLY.

8 **THE COURT:** YEP.

9 **MS. CABRAL:** AND, YOUR HONOR, BASED UPON JUST THAT
10 ONE VIDEO, THE UNITED STATES SUBMITS THAT THE ADJUSTMENT IS
11 APPROPRIATE.

12 **THE COURT:** OKAY. AND, MR. CARLOS, ANY RESPONSE?

13 **MR. CARLOS:** YOUR HONOR, ONCE AGAIN, CLEARLY THE
14 IMAGES WERE DISTURBING. HOWEVER, THE GUIDELINES CALL FOR THE
15 ACT OF DEPICTING INTENTIONAL INFLECTION OF PAIN FOR THE
16 PURPOSES OF SEXUAL GRATIFICATION.

17 WHAT WE SAW IN COURT WAS, ESSENTIALLY, A PENETRATION.
18 THERE WAS NO INDICATION OF PAIN OR INTENTIONAL INFLECTION OF
19 PAIN. AND FOR THAT REASON, I DON'T BELIEVE THAT THIS
20 PARTICULAR ADJUSTMENT APPLIES.

21 **THE COURT:** WELL, I APPRECIATE THAT, BUT I THINK THE
22 LAW OF THE CIRCUIT IS CLEAR, THAT THAT DEPICTION, THAT
23 PENETRATION AND THE OBVIOUS FACTORS THAT ARE DEMONSTRATED ON
24 THAT BIT OF EVIDENCE SHOW A SADISTIC TYPE OF CONDUCT FOR NO
25 GOOD PURPOSE. AND I THINK A REASONABLE INFERENCE WOULD BE FOR

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1 SEXUAL GRATIFICATION OR OTHER DEVIANT NEED.

2 **MS. CABRAL:** AND SIMPLY FOR PURPOSES OF THE RECORD,
3 YOUR HONOR, AT TRIAL, IN AN EFFORT TO MITIGATE THE IMPACT, WE
4 DID NOT PLAY THE AUDIO FROM THOSE VIDEOS. IF THE DEFENSE
5 BELIEVES THAT THAT SHOULD BE APPROPRIATE, WE CAN DO THAT.

6 AND THAT WOULD, I DO BELIEVE, SATISFY EVEN THE
7 DEFENSE ARGUMENT WITH REGARD TO THE DEPICTION OF PAIN
8 INFILCTED.

9 **THE COURT:** WELL, SINCE WE PROBABLY DON'T HAVE THAT
10 HERE, AN AUDIO -- WOULD THAT AUDIO REVEAL SCREAMS, CRIES OR
11 SOMETHING ELSE?

12 **MS. CABRAL:** YES, YOUR HONOR. THEY DO DEPICT THE
13 CHILD CRYING WHILE BEING PENETRATED.

14 **THE COURT:** ALL RIGHT. WELL, ARGUMENTS ASIDE, I
15 THINK IT'S AN APPROPRIATE ENHANCEMENT HERE. THAT IS FOUR
16 LEVELS.

17 LET'S SEE. 22, PLUS TWO FOR THE PREPUBESCENCE, TWO
18 FOR THE COMPUTER, FIVE FOR IMAGES, IS A 31. KNOWING
19 DISTRIBUTION, PLUS 2, IS 33, AND THEN SADISTIC/MASOCHISTIC
20 CONDUCT BRINGS US TO 37.

21 CRIMINAL HISTORY CATEGORY ONE, NO SCOREABLE POINTS,
22 210 TO 240 IN TERMS OF MONTHS IN PRISON IS THE PROJECTED RANGE
23 FOR SENTENCING.

24 NOW, ALL OF THIS IS AN ADVISORY NUMBER, HIGHLY
25 INFORMATIVE, BUT SUBJECT TO DEPARTURE, NON-GUIDELINE VARIANCE

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1 BASED ON FACTORS.

2 AND SO, MR. CARLOS, I WILL LET YOU ADDRESS EITHER FOR
3 GUIDELINES FURTHER, IF YOU WISH, OR ANYTHING ELSE.

4 MR. CARLOS: JUST DISCUSSING A BASIC VARIANCE FOR THE
5 COURT. THE COURT IS WELL AWARE OF THE FACTS OF THE CASE. I
6 DON'T HAVE TO GO THROUGH THAT.

7 MR. WALSH, THOUGH, ON PAPER, PRESENTS AS AN
8 INDIVIDUAL WHO IS -- HIS AGE WAS 55 YEARS OLD, NOW 56. HE HAS
9 OTHERWISE BEEN DOING EVERYTHING RIGHT. HE WAS BORN AND RAISED
10 IN A VERY, VERY NURTURING FAMILY. FIVE SIBLINGS IN THE BOSTON,
11 MASSACHUSETTS AREA.

12 THE FATHER WAS A FIREFIGHTER AND REALLY INSTILLED
13 UPON HIM A GREAT, I GUESS, DESIRE TO PROVIDE SERVICE FOR THIS
14 COUNTRY AND TO THE COMMUNITY AT LARGE. IT'S FOR THAT REASON HE
15 JOINED THE MARINE CORPS. HE WAS HONORABLY DISCHARGED.

16 AND AS I POINTED OUT IN MY MOVING PAPERS, EVEN AFTER
17 HE LEFT THE MARINE CORPS, WHEN GOING INTO HIS CHOSEN PROFESSION
18 OF FIREFIGHTING, HE CHOSE TO DO IT ON MILITARY BASES, WHICH IS
19 A WAY OF KIND OF GIVING BACK TO THE MILITARY FOR THE TIME THAT
20 HE HAD ACTUALLY SPENT THERE, SERVING THE COUNTRY IN THE
21 MILITARY.

22 HE RAISED TWO WELL-ADJUSTED CHILDREN. HE HAS
23 MAINTAINED A SIGNIFICANT RELATIONSHIP WITH HIS COMMON-LAW WIFE,
24 PATTY CHISHOLM, WHO HAS SHOWN HER SUPPORT FOR HIM.

25 THERE IS REALLY -- I MEAN, HE HAS MADE SOME CHOICES

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1 REGARDING HIS VIEWING OF PORNOGRAPHY. AND, YOU KNOW, SOME OF
2 HIS OTHER LIFESTYLE CHOICES WHICH, TO SOME PEOPLE, MIGHT SEEM A
3 BIT STRANGE, BUT ARE NOT, IN AND OF THEMSELVES. YOU KNOW, HIS
4 POSSESSION OF ADULT PORNOGRAPHY WAS NOT, IN AND OF ITSELF,
5 ILLEGAL.

6 SO HE HAS HAD A LOT OF TIME, REALLY, TO THINK ABOUT
7 WHAT HE IS GOING TO DO IN THE FUTURE, WHERE HE IS GOING TO BE.
8 I THINK THAT THE PROBATION REPORT INDICATED A LOT OF HIS
9 ACTIVITIES REVOLVED AROUND ALCOHOL AND DRINKING A 12-PACK A
10 DAY, WHICH HE DIDN'T THINK WAS A PROBLEM, WHICH EVERYBODY ELSE
11 THOUGHT WAS A PROBLEM. BUT IT'S SOMETHING THAT HE NOW REALIZES
12 IS SOMETHING HE NEEDS TO TAKE CONTROL OF IN ORDER TO MOVE
13 FORWARD IN THE FUTURE.

14 I JUST THINK THAT THE GUIDELINE RANGES IN THIS
15 PARTICULAR CASE, WHEN YOU LOOK IN TERMS OF -- I START A TRIAL
16 IN TWO WEEKS ON A CHILD MOLESTATION WHERE THE PERSON IS LOOKING
17 AT HALF THIS TIME FOR ACTUALLY VIOLATING THE CHILD. SO IT JUST
18 SEEMS A BIT EXTREME FOR THE 210 MONTHS, GIVEN WHAT HIS CONDUCT
19 WAS IN THIS CASE, WHICH, IF WE BELIEVE THE JURY'S FINDINGS, IS
20 VIEWING CHILD PORNOGRAPHY.

21 AND EVEN SHARING, WE DON'T SEE -- AS I TALKED ABOUT
22 IN THE MOVING PAPERS, WE DON'T REALLY SEE HIM ACTIVELY SHARING
23 OR INVOLVED IN ANY TYPE OF FORUMS WHERE THEY TALK AND CHAT
24 ABOUT THIS VIDEO "AND I HAVE THIS, AND I HAVE THIS, GIVE ME
25 THAT." IT'S BASICALLY VIEWING THE CHILD PORNOGRAPHY.

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1 SO FOR THAT REASON, I BELIEVE THAT THE REQUESTED
2 SENTENCE OF 70 MONTHS IN THE BUREAU OF PRISONS IS SIGNIFICANT.
3 IT REFLECTS THE CONSIDERATIONS OF 3553, AND I THINK IT'S JUST
4 UNDER THE CIRCUMSTANCES.

5 I WOULD REQUEST THAT THE COURT CONSIDER A
6 RECOMMENDATION FOR THE RDAP PROGRAM, AS WELL AS PLACEMENT IN
7 THE WESTERN REGION.

8 **THE COURT:** OKAY. YES. I THINK THAT IS A GOOD IDEA.

9 MR. WALSH, IS THERE ANYTHING YOU WOULD LIKE TO SAY ON
10 YOUR OWN BEHALF HERE?

11 **THE DEFENDANT:** NO, YOUR HONOR. THANK YOU VERY MUCH.

12 **THE COURT:** MS. CABRAL, MS. GRIFFITH, WHICH OF YOU
13 WOULD LIKE TO ADDRESS THE ISSUES FURTHER?

14 **MS. CABRAL:** I WILL, YOUR HONOR. THANK YOU. AS THE
15 COURT IS AWARE, THE UNITED STATES IS RECOMMENDING 210 MONTHS IN
16 CUSTODY, THE LOW END OF THE GUIDELINE RANGE IN THIS CASE.

17 I JUST WANT TO ADDRESS THE OFFENSE CONDUCT FIRST,
18 YOUR HONOR. THE IDEA THAT THIS IS A VICTIMLESS CRIME, THAT
19 THIS CONDUCT THAT THE JURY FOUND BEYOND A REASONABLE DOUBT IS A
20 VICTIMLESS CRIME IS JUST PREPOSTEROUS, YOUR HONOR.

21 I KNOW THAT YOU HAVE READ THE PRESENTENCE REPORT.
22 PARAGRAPHS 53 TO 55 FROM THE VICTIM IN ONE OF THESE CASES, IN
23 ONE OF THESE VIDEOS, TALKS ABOUT THE FACT THAT NOT ONLY WAS SHE
24 VICTIMIZED AND THAT ABUSE WAS RECORDED, BUT EVERY TIME, EVERY
25 DAY SHE LIVES IN FEAR THAT SOMEONE IS GOING TO RECOGNIZE HER,

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10

1 THAT SOMEONE IS GOING TO CONTACT HER. SHE TALKS ABOUT THE FACT
2 THAT PEOPLE HAVE ATTEMPTED TO CONTACT HER BASED UPON THESE
3 VIDEOS BEING ON THE INTERNET. SHE FEELS LIKE SHE IS BEING
4 RAPED BY EVERY PERSON WHO VIEWS THESE VIDEOS OF HER ABUSE.

5 AND, YOUR HONOR, THAT IS NOT INSIGNIFICANT. THAT IS
6 THE WORDS OF THE VICTIM IN ONE OF THESE VIDEOS.

7 YOUR HONOR, AS YOU ARE AWARE, BASED UPON THE TRIAL IN
8 THIS CASE, THE MAJORITY OF THESE ITEMS WERE ON THE LAPTOP
9 COMPUTER THAT WAS PART OF THE EVIDENCE IN THE CASE. THERE WERE
10 A SIGNIFICANT NUMBER OF VIDEOS AND IMAGES THAT WERE REFLECTED
11 IN THE EVIDENCE. THERE WAS ALSO EVIDENCE THAT THERE HAD BEEN
12 ITEMS REMOVED TO AN EXTERNAL HARD DRIVE ON A "MY PASSPORT" THAT
13 DIDN'T HAVE -- WE DON'T KNOW WHERE THAT IS.

14 THERE WAS ALSO EVIDENCE THAT THERE WERE IMAGES ON A
15 DELL TOWER COMPUTER. SO WE'RE TALKING ABOUT IMAGES AND VIDEOS
16 OVER A NUMBER OF DEVICES.

17 AND, YOUR HONOR, THE ADDITIONAL CONDUCT THAT IS
18 REFLECTED IN THE PSR IS SOMETHING THAT NEEDS TO BE CONSIDERED.
19 PARAGRAPH 138 TALKS ABOUT THE VIDEO VOYEURISM ONBOARD CAMP
20 PENDLETON. THAT WAS A FEDERAL OFFENSE. IT'S A MISDEMEANOR.
21 IT WASN'T CHARGED HERE, BUT THIS WOMAN DID NOT HAVE ANY IDEA
22 THAT SHE WAS BEING RECORDED USING A PRIVATE RESTROOM ONBOARD
23 CAMP PENDLETON.

24 THAT MIRRORS THE OTHER VIDEO VOYEURISM ACTIVITY THAT
25 IS REFLECTED IN PARAGRAPHS 32 TO 39 OF THE PRESENTENCE REPORT,

MAY 21, 2018

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

WILLIAM F. WALSH, IV,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**On Petition For A Writ of *Certiorari* To The United States Court of Appeals
for the Ninth Circuit**

PROOF OF SERVICE

I, David A. Schlesinger, declare that on March 9, 2020, as required by Supreme Court Rule 29, I served Petitioner William F. Walsh, IV's MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on counsel for Respondent by depositing an envelope containing the motion and the petition in the United States mail (Priority, first-class), properly addressed to him, and with first-class postage prepaid.

The name and address of counsel for Respondent is as follows:

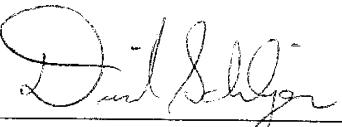
The Honorable Noel J. Francisco, Esq.
Solicitor General of the United States
United States Department of Justice
950 Pennsylvania Ave., N.W., Room 5614
Washington, DC 20530-0001
Counsel for Respondent

Additionally, I mailed a copy of the motion and the petition to my client, Petitioner William F. Walsh, IV, by depositing an envelope containing the documents in the United States mail, postage prepaid, and sending it to the following address:

William F. Walsh, IV
Register No. 61220-298
FCI Seagoville
Federal Correctional Institution
P.O. Box 9000
Seagoville, TX 75159

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 9, 2020



DAVID A. SCHLESINGER
Declarant