

No. \_\_\_\_\_

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IN THE

**SUPREME COURT OF THE UNITED STATES**

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MELISSA POCOPANNI,  
*Petitioner,*

v.

STATE OF FLORIDA,  
*Respondent.*

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

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**APPENDIX TO PETITION FOR WRIT OF CERTIORARI**

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COUNSEL FOR THE PETITIONER

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**DISTRICT COURT OF APPEAL, FIRST DISTRICT  
2000 Drayton Drive  
Tallahassee, Florida 32399-0950  
Telephone No. (850)488-6151**

October 21, 2020

**CASE NO.: 1D19-0406  
L.T. No.: 2017 CF 669**

Melissa Pocopanni

v.

State of Florida

---

Appellant / Petitioner(s),

Appellee / Respondent(s)

**BY ORDER OF THE COURT:**

Appellant's motion docketed October 19, 2020, for rehearing/issuance of a written opinion is denied.

**I HEREBY CERTIFY** that the foregoing is (a true copy of) the original court order.

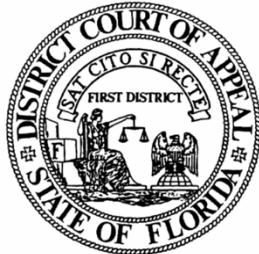
Served:

Hon. Ashley Moody, AG  
Michael Ufferman

Damaris E. Reynolds, AAG  
Patrice C. Cashwell

th

  
KRISTINA SAMUELS, CLERK



FIRST DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

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No. 1D19-406

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MELISSA POCOPANNI,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

---

On appeal from the Circuit Court for Santa Rosa County.  
David Rimmer, Judge.

October 2, 2020

PER CURIAM.

AFFIRMED.

ROBERTS, KELSEY, and JAY, JJ., concur.

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*Not final until disposition of any timely and  
authorized motion under Fla. R. App. P. 9.330 or  
9.331.*

---

Michael Ufferman of Michael Ufferman Law Firm, P.A.,  
Tallahassee; Patrece C. Cashwell, Pensacola, for Appellant.

Ashley Moody, Attorney General, and Damaris E. Reynolds,  
Assistant Attorney General, Tallahassee, for Appellee.

STATE OF FLORIDA  
IN THE CIRCUIT COURT OF THE 1ST JUDICIAL CIRCUIT  
IN AND FOR SANTA ROSA COUNTY FLORIDA

STATE OF FLORIDA,  
-vs-  
MELISSA BLAIR POCOPANNI  
Defendant.

UCN: 572017CF000669CFAXMX  
Case Number: 17000669CFMXAX  
OBTS#: 5701124923

**Judgment**

PROBATION VIOLATOR       RESENTENCE  
 COMMUNITY CONTROL VIOLATOR       RETRIAL

The defendant MELISSA BLAIR POCOPANNI being personally before the court represented by PATRECE C CASHWELL, the attorney of record and the state represented by MATTHEW DEAN GORDON and having been tried and found guilty by jury of the following crime(s):

SEQ #	CNT #	CHARGE	LVL DGR
1	1	782.04.2, PRINCIPAL SECOND DEGREE MURDER WITH A FIREARM 775.087 777.011	Felony First Degree PBL
2	2	782.04.2, PRINCIPAL ATTEMPTED SECOND DEGREE MURDER WITH A FIREARM 775.087 777.011 777.04	Felony First Degree
3	3	782.04.2, PRINCIPAL ATTEMPTED SECOND DEGREE MURDER WITH A FIREARM 777.011 777.04 775.087	Felony First Degree
4	4	NOL PROS	

The PROBATION COMMUNITY CONTROL previously ordered in this case is revoked.  
 The PRIORITY ADJUDICATION OF GUILT IN THIS CASE IS CONFIRMED and no cause having been shown why the defendant should not be adjudicated guilty.

It is ordered that the defendant is hereby Adjudicated Guilty of the above crime(s). and having been convicted or found guilty of attempts or offenses relating to murder, the defendant shall be required to submit blood specimens or other biological specimens approved by FDLE.

State of Florida

v.

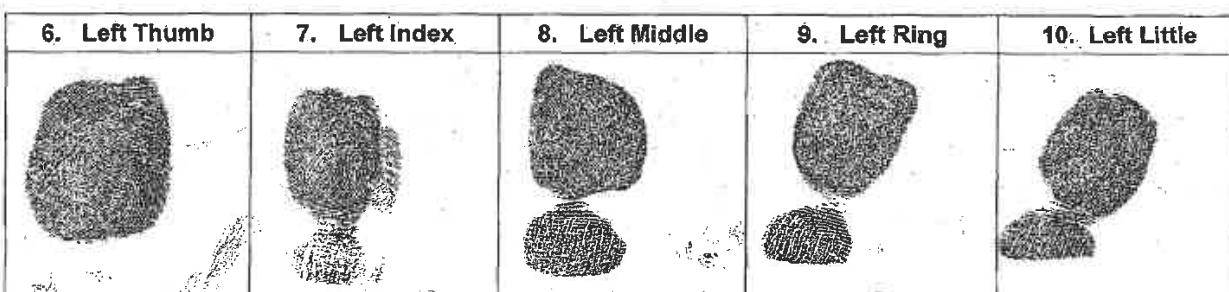
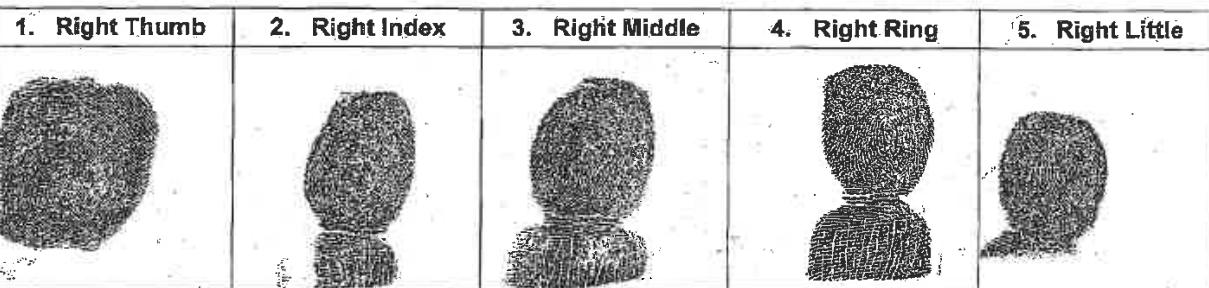
MELISSA BLAIR POCOPANNI : 2019 JAN 29 PM 12: 54  
Defendant

Case Number: 17-CF-669

DONALD C SPENCER  
CLERK OF COURT &  
COMPTROLLER

SANTA ROSA COUNTY FL  
FELONY FILED

FINGERPRINTS OF DEFENDANT



Fingerprints taken by:

*Skoger* #101/609

Name

*Deputy*

Title

I HEREBY CERTIFY that the above and foregoing are the fingerprints of the defendant, Melissa Blair Pocopanni, and that they were placed by the defendant in my presence in open court this date.

DONE AND ORDERED in open court in Milton, Santa Rosa County, Florida this 29 day of

JANUARY 2019.

*W. M. W.*  
Circuit Judge

STATE OF FLORIDA  
IN THE CIRCUIT COURT OF THE 1ST JUDICIAL CIRCUIT  
IN AND FOR SANTA ROSA COUNTY FLORIDA

STATE OF FLORIDA,

-vs-

MELISSA BLAIR POCOPANNI  
Defendant.

UCN: 572017CF000669CFAXMX  
Case Number: 17000669CFMXAX

**Sentence**  
As To Count 1

The defendant, being personally before this court, accompanied by the defendant's attorney of record, PATRECE C CASHWELL, and having been adjudicated guilty herein, and the court having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the defendant should not be sentenced as provided by law, and no cause being shown,

(Check one if applicable)

- and the court having on 01/29/2019 deferred imposition of sentence until this date 01/29/2019
- and the court having previously entered a judgment in this case on \_\_\_\_\_ now resentence the defendant
- and the court having placed the defendant on probation/community control and having subsequently revoked the defendant's probation/community control

It Is The Sentence Of The Court That:

The Defendant is hereby committed to the custody of the Department of Corrections.

- The defendant pay a fine pursuant to section 775.083, Florida Statutes, plus a 5% surcharge required by section 938.04 Florida Statutes, as indicated on the Fine/Costs/Fee Page.
- The defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To Be Imprisoned:

For a term of natural life.

In the event the defendant is ordered to serve additional split sentences, all incarcerations portions shall be satisfied before the defendant begins service to the supervision terms.

STATE OF FLORIDA  
IN THE CIRCUIT COURT OF THE 1ST JUDICIAL CIRCUIT  
IN AND FOR SANTA ROSA COUNTY FLORIDA

STATE OF FLORIDA,

-vs-

MELISSA BLAIR POCOPANNI  
Defendant.

UCN: 572017CF000669CFAXMX  
Case Number: 17000669CFMXAX

**Sentence**  
As To Counts 2&3

The defendant, being personally before this court, accompanied by the defendant's attorney of record, PATRECE C CASHWELL, and having been adjudicated guilty herein, and the court having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the defendant should not be sentenced as provided by law, and no cause being shown,

(Check one if applicable)

- and the court having on 01/29/2019 deferred imposition of sentence until this date 01/29/2019
- and the court having previously entered a judgment in this case on \_\_\_\_\_ now resentences the defendant
- and the court having placed the defendant on probation/community control and having subsequently revoked the defendant's probation/community control

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The Defendant is hereby committed to the custody of the Department of Corrections.

- The defendant pay a fine pursuant to section 775.083, Florida Statutes, plus a 5% surcharge required by section 938.04 Florida Statutes, as indicated on the Fine/Costs/Fee Page.
- The defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To Be Imprisoned:

For a term of 30.000 year(s)

In the event the defendant is ordered to serve additional split sentences, all incarcerations portions shall be satisfied before the defendant begins service to the supervision terms.

STATE OF FLORIDA  
IN THE CIRCUIT COURT OF THE 1ST JUDICIAL CIRCUIT  
IN AND FOR SANTA ROSA COUNTY FLORIDA

STATE OF FLORIDA,

-vs-

MELISSA BLAIR POCOPANNI  
Defendant.

UCN: 572017CF000669CFAXMX  
Case Number: 17000669CFMXAX  
OBTS#: 5701124923

**Other Provisions**  
As To Counts 1,2,3.

It is further ordered that the defendant shall be allowed a total of 126,000 day(s) credit for such time incarcerated before imposition of this sentence.

**ALL COUNTS CONCURRENT**

**CREDIT FOR TIME SERVED:**

- The Department of Corrections shall apply the original jail time (To be used for Resentencing credit and to compute and apply credit for time served and the and after VOP and VOCC.) gain time awarded pursuant to section 944.275 Florida Statutes. (Pre October 1, 1989)
- The Department of Corrections shall apply the original jail time credit and to compute and apply credit for time served and unforfeited gain time awarded during prior service of incarceration of the split sentence pursuant to section 948.06 (6) Florida Statutes. (Post October 1, 1989)
- Defendant is allowed credit for \_\_\_\_\_ days credit county jail served between date of arrest as a violator and date of resentencing. The Department of Corrections shall apply original jail credit awarded and shall compute and apply credit for actual time served in prison and any earned and unforfeited gain time awarded prior service on:

CASE NO:

COUNT

pursuant to section 944.276 Florida Statutes.



**IN THE CIRCUIT COURT OF THE FIRST CIRCUIT  
IN AND FOR SANTA ROSA COUNTY, FLORIDA**

**STATE OF FLORIDA**

**CASE NO: 2017 CF 669**

**v.**

**MELISSA POCOPANNI**

**DIVISION: A**

**DEFENDANT'S MEMORANDUM FOR SENTENCING**

Defendant in the above-styled cause hereby furnishes to the State Attorney and the Court the following items of evidence which the Defense will be presenting for sentencing purposes to allow for a downward departure and states as follows:

1. The Defendant does score mandatory prison.
2. **The Defense in this case is requesting a downward departure** and seeks to mitigate the sentence.
  - a. Under Florida Statute §921.001(6), any request for downward departure must be supported by a preponderance of the evidence and departures from the recommended sentences established in the guidelines must be articulated in writing and made only when circumstances or factors reasonably justify the mitigation of the sentence. The court may consider not only those mitigating factors enumerated in the statute but also non-statutory mitigating evidence. Crump v. State, 697 So.2d 1211 (Fla. 1997); Merck v. State, 763 So.2d 295 (Fla. 2000).
3. "The Trial Court's obligation is to both find and weigh all valid mitigating evidence available anywhere in the record at the conclusion of the penalty phase." Wickham v. State, 593 So.2d 191, 194 (Fla. 1991).
4. "Evidence is mitigating if, in fairness or in the totality of the defendant's life or character, it may be considered as extenuating or reducing the degree of moral culpability for the crime committed." Wickham v. State, 593 So.2d 191, 194 (Fla. 1991).

**STATUTORY MITIGATION:**

The following are statutory mitigators under Florida Statute 921.0026:

1. The defendant was an accomplice to the offense and was a relatively minor participant in the criminal conduct.
2. The capacity of the defendant to appreciate the criminal nature of the conduct or to conform that conduct to the requirements of the law was substantially impaired.
3. The defendant requires specialized treatment for a mental disorder that is unrelated to substance abuse or addiction and the defendant is amenable to treatment.
4. The offense was committed in an unsophisticated manner and was an isolated incident for which the defendant has shown remorse.
5. At the time of the offense the defendant was too young to appreciate the consequences

of the offense.

**NON- STATUTORY MITIGATION:**

"Evidence is mitigating if, in fairness or in the totality of the defendant's life or character, it may be considered as extenuating or reducing the degree of moral culpability for the crime committed." Wickham v. State, 593 So.2d 191, 194 (Fla. 1991).

1. The Defendant immediately cooperated with the police and but for her cooperation, the co-defendants would never have been identified. This cooperation resulted in credible death threats that began almost immediately and still persist to this day.
2. She continued to cooperate with the police for months thereafter even though the death threats required her and her family to live in a hotel at times.
3. She testified at the trial of the codefendants despite these death threats that required her to be escorted to and from the courthouse by a security detail.
4. After the Co-defendant's trial, she had to again reside in a hotel with her family when Ashley Johns made credible death threats against her causing Detective Mistovich to go to Ms. Pocoppani's home to warn the family.
5. She was Baker Acted three weeks after the shooting and received a diagnosis that she immediately began voluntary therapy to address. After the shooting and prior to her arrest, she voluntarily sought mental health assistance. After her arrest she continued with treatment once she bonded out.
6. She voluntarily began a moral inventory and addressed those issues through her church and counseling.
7. She also began to address the sexual abuse she suffered as a four year old child and her consequent sex and food addiction.

Attached to this memo are FOUR character letters that have already been supplied in Reciprocal Discovery prior to today.

Other grounds to be argued ORE TENUS.

**CERTIFICATION**

I HEREBY CERTIFY that a true copy of the foregoing has been furnished, by eservice, to the Office of the State Attorney, this 28th day of January 2019.

*Patrice Cashwell*  
\_\_\_\_\_  
Patrice Cashwell  
Florida Bar No.0152145  
201 E. Government Street  
Pensacola, Florida  
Tel. (850) 432-9005

1                   lick or some hot shit as she called it, and then she --  
2                   that's what they said according to her, and then she  
3                   thought from that that it might be a robbery, it might  
4                   be drugs, it might be a gun, but at no time did she  
5                   think was there any discussion as to what the sweet  
6                   lick was going to be.

7                   So I don't -- so State hasn't, even by a  
8                   preponderance of the evidence, proven that there was a  
9                   meeting of the minds where they were -- that they  
10                   intended to commit this crime and that she had  
11                   conscious intent that the criminal act be done, so I'll  
12                   ask that the Court grant the judgment of acquittal.

13                   THE COURT: All right. Well, the evidence  
14                   shows that the defendant was very eager to participate  
15                   in what she called a sweet lick with the co-defendants  
16                   which she said meant robbery of money or drugs. The  
17                   evidence shows that these individuals were armed.

18                   In fact, she indicated in her statements as I  
19                   recall that they always had guns, and so she got in the  
20                   car or she actually loaned them her car, which I think  
21                   is very significant because without the car there could  
22                   be no crime. No car. No crime. No crime. No murder.

23                   And she could have got out of the car at any  
24                   time before they got to the scene of the crime, just  
25                   like RJ Green got out of the car. She could have

1 changed her mind and refused to let them use the car.

2 She also indicated that she was aware that one  
3 of them had a beef with somebody else because of  
4 Facebook posts so I think the jury can infer the  
5 defendant was a willing participant in a crime of  
6 violence that was going to take place, even though she  
7 may have thought it was going to be a robbery, and it  
8 turned out to be a murder. I think that's a question  
9 for the jury so therefore the motion is denied.

10 MS. CASHWELL: I'm ready for the first  
11 witness.

12 THE COURT: All right. Let's bring the jury  
13 back in.

14 MS. CASHWELL: Let before the -- the exhibits,  
15 I need to see those exhibits so I can admit them. So,  
16 Matt, what I'm going to do is admit 8C only if you want  
17 to take a look at this.

18 MR. GORDON: Haven't they already been  
19 introduced?

20 MS. CASHWELL: They've been introduced for  
21 identification purposes, but now I'm going to actually  
22 seek to admit, and so there's yours and there's 8C. I  
23 am just doing 8C. Then I am going to do 2A.

24 MR. GORDON: You're asking on 2A.

25 MS. CASHWELL: I got the pictures.

1 the families?

2 THE COURT: Sure. We can do that.

3 MS. CASHWELL: Thank you.

4

5 WHEREUPON, MELISSA POCOPANNI,

6 testified as follows:

7 THE DEFENDANT: To the family (crying) of  
8 Thomas Buckhalter. First and foremost I would like to  
9 say I'm sorry for your loss.

10 I did not know Mr. Thomas Buckhalter, but I  
11 think about him every day. He was someone's son,  
12 someone's father, and someone's brother, and a friend  
13 to many (crying). I did not -- okay. Hold on. I did  
14 not know -- I did not know that those three boys had  
15 this planned, and if I would have known --

16 SPEAKER: Yes, you did.

17 SPEAKER: You did, you did.

18 THE DEFENDANT: -- what I know now, I would  
19 have stayed away from them completely.

20 I pray every day that God gives you peace in  
21 this situation. Once again, I am very sorry for your  
22 loss. My heart breaks every day for your family.

23 (Crying) this is supposed to be for Ashley,  
24 but she's not here. I am so sorry that you were shot  
25 -- shot. I'm sorry. I'm sorry. I am so sorry that

1 you were shot. Although we have our differences I  
2 never told those boys to hurt you in any way. No one  
3 deserves to go through what you went through. I thank  
4 God every day that you're still alive, and I just wish  
5 I could take your pain away. Please understand that  
6 this incident was not my doing. You did not deserve  
7 any of this.

8                   And I don't think that Jermun Nairn is here,  
9 but I wrote this. It says, "I do not know you, but I'm  
10 very sorry about your foot. I pray every day that you  
11 heal well. I'm very -- I'm very -- I'm very, very  
12 sorry. I did not -- honestly I did not even know that  
13 Ashley was even over there. I had no idea. I promise  
14 you I had no idea. I promise you. She did not deserve  
15 what she's gone through, and I pray for her every day,  
16 because (unintelligible) stuff. I've been there and I  
17 know that nobody deserves to feel that way.

18                   I've been baker acted before, and I just -- I  
19 just wish I could just -- I just wish that I could talk  
20 to her -- I'm sorry. I'm sorry -- I just wish -- I  
21 wish that I could talk to her and just tell -- and just  
22 tell her that it really did not -- it really -- it  
23 really was not me. I'm sorry. I'm sorry. I did not  
24 know -- I did not -- I did not know. I had -- I just  
25 really wish I could explain to here that I didn't -- I

1 did not ever tell them to shoot any guns. She did not  
2 deserve -- deserve that. Nobody deserves that.

3 And I pray for you every day. My family prays  
4 for you. I pray for Ashley every night. I pray for  
5 your family every night, and I know that you reject my  
6 tears, but I pray every single night, and I know -- I  
7 know that God will give us peace in this.

8 And that's all. I'm sorry -- very sorry.

9 MS. CASHWELL: Do you want to make a statement  
10 to the judge?

11 THE DEFENDANT: I do.

12 MS. CASHWELL: And, Your Honor, this is for  
13 the Court.

14 THE COURT: Okay.

15 THE DEFENDANT: Oh, I need a minute (crying).  
16 I need -- hold on. I need to sit down.

17 MS. CASHWELL: Your Honor --

18 THE COURT: Take your time.

19 MS. CASHWELL: Are you dizzy?

20 THE DEFENDANT: I'm dizzy. I'm dizzy.

21 MS. CASHWELL: Okay. Sit down.

22 THE COURT: You can remain seated, if you  
23 wish.

24 THE DEFENDANT: I'm okay. I'm sorry -- I'm  
25 really -- really trying.

1 MS. CASHWELL: Take your time.

2 THE DEFENDANT: Saying sorry won't even begin  
3 to express my condolences to the family of Mr. Thomas  
4 Buckhalter and to the victims Ashley Johns and Jermun  
5 Nairn, and to their families, and the witnesses of this  
6 horrible -- horrible event.

7 I did not know Mr. Buckhalter, but what I do  
8 know and firmly believe is that no one deserves to have  
9 their life taken (crying) -- no one deserves to have  
10 their life taken or nearly taken by anyone else. God  
11 is the one who breathes life into us. God is the one  
12 who breathes life into us, and he -- he is the only one  
13 who should take life away.

14 There is not a single day that goes by that  
15 Mr. Buckhalter, Ashley Johns, and Jermun Nairn don't  
16 come into my mind. I pray for them and families  
17 multiple times a day. And if I could take the place of  
18 any of the victims, I true -- true -- truly would  
19 without a second thought.

20 To say that this event has changed my life  
21 completely would be a vast understatement. My heart  
22 goes out to girls, who are young and naive like I was,  
23 running with the -- oh, I don't want to throw up --  
24 hold on.

25 My heart goes out to girls who are young and

1                   naive like I was, running with the wrong crowd, dealing  
2                   with domestic abuse, trying to understand their mental  
3                   health. My goal in life now is to start an -- I'm  
4                   sorry -- my goal in life now is to start a Christian-  
5                   based organization that helps females who are lost like  
6                   I was. I want to call it there's a better life. I  
7                   want to dedicate my life to -- I want to dead -- I want  
8                   to dedicate my life to ministering to females so that I  
9                   can prevent things like this from happening to the best  
10                   of my ability. I know God had big, big plans for me,  
11                   and I know that my testimony -- my testimony is huge.

12                   Psalms 26 says now that I know -- "Now I know  
13                   that the lord saves his anointed, and he will answer  
14                   him from his holy heaven with the saving strength of  
15                   his right hand.

16                   In conclusion I am coming before you the  
17                   Honorable Judge Rimmer asking that you spare my life  
18                   and give me a light sentence, a light sentence.

19                   However wherever I go I will dwell in the house of the  
20                   Lord forever and continue to spread the gospel.

21                   That's all.

22                   MS. CASHWELL: Do you have any questions?

23                   MR. RICHARDSON: No.

24                   MR. GORDON: No.

25                   THE COURT: All right. Anything else you want

1 to present?

2 MS. CASHWELL: Yes, Your Honor. I will call  
3 Ms. Pocopanni to the stand -- Mrs. Pocopanni, her  
4 mother.

5 THE COURT: All right. Ma'am, would you raise  
6 your right hand.

7 (Witness sworn)

8 THE WITNESS: Yes, sir.

9 THE COURT: Thank you. Please have a seat.  
10 Please state your name and spell your first and last  
11 names.

12 THE WITNESS: Uh-huh. Cindy Pocopanni. It's  
13 C-I-N-D-Y. Pocopanni is P-O-C-O-P-A-N-N-I.

14 WHEREUPON, CINDY POCOPANNI,  
15 having been first duly sworn, was examined and testified as  
16 follows:

17 DIRECT EXAMINATION

18 BY MS. CASHWELL:

19 Q. And, ma'am, how old are you? Where do you  
20 work, and where do you live?

21 A. 53 -- I live here in Milton. And I work at  
22 Pete Moore Chevrolet. I'm the comptroller there.

23 Q. And how many years have you worked there?

24 A. Since we moved back to Milton, since March of  
25 '13.

1 Q. Okay. And can you -- I want to start with a  
2 little bit of a chronological overview of Ms. Pocopanni --  
3 of Melissa, okay?

4 A. Okay.

5 Q. So let's start with birth, and that was in  
6 Riverview, Florida?

7 A. Yes.

8 Q. And can you explain to the judge how she  
9 became your daughter?

10 A. Okay. She was born June 1997. My husband and  
11 I had tried to have children for many years, seven years.  
12 And so we started going through the process of adoption, and  
13 we adopted Melissa at birth. So she became our daughter  
14 then.

15 Q. And when you -- so she was adopted at birth in  
16 Riverview?

17 A. Yes.

18 Q. And her childhood, was there any -- was her  
19 childhood normal? Were there any physical ailments --

20 A. Yes.

21 Q. -- that had to be addressed? Can you tell the  
22 judge about that?

23 A. Uh-huh. So during an adoption we got the call  
24 that we could come to the hospital, and we did that, and  
25 left the hospital in -- late that night, the first night of

1 her existence, we got a call from the hospital saying that  
2 they had found something and that she had an issue with her  
3 heart. And so she was born with a hole in her heart. And  
4 they monitored that for four years. She saw a cardiologist.  
5 She had to go through a lot of tests. They were hoping that  
6 the hole would close on its own, but it never did. So she  
7 had heart surgery at age four -- open heart surgery at age  
8 four.

9 Q. Now, there was something else significant that  
10 happened with Melissa at age four. Can you talk to the  
11 Court about that?

12 A. Yes. So when we left here in Milton in 1994  
13 we moved to the Tampa area for my husband's job. And when  
14 we got to Tampa, made a lot of close friends. We moved into  
15 a home, and next to us lived an elderly couple. And the  
16 gentleman was in his 80's, the lady was in her 70's. And  
17 they became like our family away from our family.

18 When our family would come visit us for the  
19 holidays or just -- our family was always down there, and we  
20 would go to Mr. and Ms. Queen's (phonetic) house. They just  
21 became a part of us. And whenever my kids were sick -- she  
22 has a younger brother -- and when my kids were sick, they  
23 happened to both be sick one day, Anna went to pick them up,  
24 and Melissa was five years old at the time, and my son was  
25 three -- two or three. And whenever I went to pick Melissa

1 up that day she just out belted that Mr. Queen had been  
2 sexually abusing her since she was like two years old. And  
3 she said she didn't -- she said, "Mom, I can't -- I have to  
4 tell you, I can't have this. He's told me not to tell. You  
5 know, he was telling her not to tell us of course, like what  
6 predators do. And she told us at that time. And we sought  
7 counseling for her at that time.

8 Q. And did anything happen with Mr. Queen?

9 A. He -- when we went to counseling the first  
10 time, they asked me if I had reported it, and I told them  
11 no. And so of course you have to do that. So they called.  
12 And they questioned him. And so that process started. And  
13 it seemed like that -- they went to Melissa's school. She  
14 was in Kindergarten, and she was approached at school. And  
15 she had to talk about it then. And it's like every time I  
16 felt like she talked about it, it got worse for her. And so  
17 we decided not to press charges against him.

18 And all through her life that seemed -- now,  
19 looking back on so much stuff, you look at like what would  
20 you have done different, because I believe that affected  
21 her, because she would always ask me, you know, as she got  
22 older, "Did he have to pay for that? Did he go to jail for  
23 that?" And I had to tell her, "No, he didn't."

24 Q. So she starts counseling at that age, age  
25 four, for the sexual molestation. She goes on to elementary

1 school, middle school, and how does that go?

2 A. She actually started counseling, and because  
3 to me it seemed like the counseling was making it worse,  
4 then we stopped the counseling. And then I found out later,  
5 when she was hospitalized after this incident, they said  
6 that it gets worse before it gets better. So that's  
7 something that we shouldn't have done looking back on, we  
8 shouldn't have pulled her out. We did, because we thought  
9 we were doing what was best for her.

10 And then she started going through -- she went  
11 through her childhood, her elementally school years, you  
12 know. She asked -- as she got older, she would ask about  
13 her adoption, why her birth mother, you know, gave her away.  
14 She dealt with a lot of that. She dealt with the abuse from  
15 Mr. Queen. And then they she -- I didn't know this until  
16 later, after we had talks, that when she was in middle  
17 school, she started cutting herself -- how some people will  
18 do. And then at age 15 we just started having problems with  
19 her.

20 Q. Before age 15 though you guys had moved her.  
21 There was a -- you guys had moved from Riverview --

22 A. Yes.

23 Q. -- to Milton?

24 A. Yes.

25 Q. Is that right?

1 A. Yes.

2 Q. So she had grown up in Riverview. She had a  
3 set of friends in Riverview?

4 A. Yes.

5 Q. And then at age 13 or 14 she got moved to  
6 Milton?

7 A. Yes. At age -- I think she was 14.

8 Q. Okay. So she gets moved to a new location,  
9 new school?

10 A. Yes.

11 Q. Okay. And how does -- and now she's in high  
12 school?

13 A. Yes.

14 Q. How does high school go?

15 A. She starts having problems in school,  
16 discipline problems, and --

17 Q. Did she suffer from like -- was there -- was  
18 she emotionally stable during high school?

19 A. No.

20 Q. Okay. Can you explain a little bit of why,  
21 what you mean --

22 A. Uh-huh.

23 Q. -- by what you observed?

24 A. Uh-huh. Just for her everything just started  
25 gradually. It was just like this gradual getting worse and

1 worse. I mean, she started being -- the choices that she  
2 was making, you know, the friends that she started hanging  
3 out with. She -- we had went to get something to eat one  
4 night, and we went to Taco Bell, and she got very upset  
5 about something that happened between her and brother in the  
6 back seat. She actually took the plastic folk that she  
7 was -- for the eating purposes, and she started stabbing  
8 herself in the chest. And that's when like everything for  
9 us changed, like that's -- from that point just forward  
10 everything just started going downhill.

11                   We took her to -- I took her to our primary  
12 care physician because she told me she was very depressed,  
13 and so he treated her for depression and anxiety. I think  
14 she was on one medication. And then we started sending her  
15 to counseling, so she was going to counseling once a week.  
16 And when she was at her counseling session one day they  
17 always ask, "Do you feel like you're going to harm  
18 yourself --" they ask these questions every time you go.  
19 And Melissa told her yes, that she felt like she wanted to  
20 harm herself. So she was baker acted. And the first time  
21 she was baker acted she was 16 years old.

22                   Q.     And that was on January 21<sup>st</sup>, of 2015?

23                   A.     Yes. That sounds right.

24                   Q.     Okay. And when she was baker acted, that was  
25 at Lakeview?

1           A.     Yes. The adolescent part of Lakeview.

2           Q.     And that was her first suicide attempt?

3           A.     She said she wanted to hurt herself.

4           Q.     Oh --

5           A.     She had told us after that, that she had  
6 actually in middle school she tried to hang herself in her  
7 bedroom in Riverview.

8           Q.     Now, when she got baker acted in 2015, is that  
9 when she got put on more medication?

10          A.     She got put on a mood stabilizer. They never  
11 said she was bipolar, but they put her on a mood stabilizer.  
12 So at that point she was probably on two -- maybe two  
13 medicines -- maybe two or three.

14          Q.     Did she seem to improve with medication?

15          A.     Maybe for a little bit --

16          Q.     Okay.

17          A.     -- you know, maybe for a year. She continued  
18 to go to counseling. I don't --

19          Q.     Did she have a problem finding her identity?

20          A.     Oh, yeah.

21          Q.     Okay. Can you explain that to the judge?

22          A.     Well, you know, come to -- after the incident,  
23 I know I'm -- I know I'm going ahead, but she was -- she has  
24 a lot of things that she was diagnosed with. One of the  
25 things was borderline personality disorder. And from what

1 her case managers explained to me that's like -- it usually  
2 happens when someone is young and they've had a traumatic  
3 incident happen to them. And they try to separate  
4 themselves from -- it's like it's them, but they try to  
5 separate themselves from what happened to them.

6 And so you could see as she was growing up  
7 very insecure -- very insecure, which the insecurity caused  
8 a lot of bad decision making.

9 Q. And did she have any insight into the bad  
10 decisions that she was making?

11 A. Do I think she saw it?

12 Q. Yeah. Do you think that she had insight? In  
13 other words, she was like, "Gosh, you know, I'm making these  
14 decisions and they're hurting -- I'm hurting myself."

15 A. I don't think so, no.

16 Q. Okay.

17 A. No.

18 Q. Okay.

19 A. Uh-uh.

20 Q. And did that seem to be part of her mental  
21 illness, that she lacked insight?

22 A. Yes.

23 Q. Okay. And I'm sorry I interrupted. So we  
24 were at her first baker act, when she was 16, 17, back in  
25 2015. She gets out of that, back to high school?

1 A. Yes.

2 Q. Okay. How does high school go?

3 A. She got in trouble and she got like suspended  
4 for fighting. She had issues with teachers, so it was  
5 rough.

6 Q. Okay.

7 A. Like, when she graduated, like we were like,  
8 "Is she going to graduate?" I think she had an incident  
9 even a couple days before graduation with a teacher.

10 Q. Did she try to then become an adult and, you  
11 know, get her own place, get her own job?

12 A. Well, she always said that she was going to  
13 move out when she turned 18. She felt like me and her dad  
14 were too strict, you know, and so she said she was going to  
15 move out when she turned 18. She turned 18, she didn't move  
16 out. She went to Locklin. She became a C.N.A.

17 Q. Okay.

18 A. And then --

19 Q. Now, she herself made a decision to seek  
20 training and certification as a C.N.A.?

21 A. Yes.

22 Q. Okay.

23 A. Yes.

24 Q. And that was an endeavor to establish some  
25 independence?

1           A.     Yes.

2           Q.     Okay.

3           A.     Uh-huh. And then she moved out October of  
4 2016.

5           Q.     And, when she moved out on October 26, was  
6 that the little apartment that we've been hearing about --

7           A.     Yes, yes.

8           Q.     -- down by Milton High School?

9           A.     Yes, off Stewart Street.

10          Q.     Okay. Now, you -- your house was actually  
11 almost within walking distance --

12          A.     Yes.

13          Q.     -- of her little apartment?

14          A.     Uh-huh.

15          Q.     Okay. She lived there by herself in October  
16 of 2016?

17          A.     No. She started off by herself. The intent  
18 was for her to move out by herself, but at that point she  
19 was seeing someone, and he ended up moving in with her.

20          Q.     And that was Quindarius --

21          A.     Yes.

22          Q.     -- Deramus?

23          A.     Yes.

24          Q.     And how would you describe the relationship  
25 between Melissa and Quindarius?

1           A.     Not good.

2           Q.     Okay.

3           A.     There was an incident before she moved out in  
4 October they started seeing each other that summer, and  
5 Melissa found out that he had been unfaithful to her. And  
6 so she didn't want to talk to him. And he came to the house  
7 unannounced, and he was telling me he wanted to see her.  
8 And I said, "She doesn't want to see you." And I told him,  
9 I said, "Please leave." And so she had come to the door,  
10 and she had to tell him, "You need to leave, I don't want to  
11 talk to you." And so he left -- we thought he left.

12           And we were in the house, and I heard all of  
13 this beat and banging. And so I looked out my front window,  
14 and he was like beating his own car, like just beating the  
15 top of it. Just -- he was -- so I opened the door, and I  
16 told him, I said, "Quin, you have to leave. You can't do  
17 that here. I mean, you know, we have neighbors." I said,  
18 "You need to stop."

19           And then he started like wailing, and crying,  
20 and screaming that he loved her, and he just wanted to talk  
21 to her. And literally, when he left my house, I was scared.

22           And so like for the next hour we -- she was in  
23 her room. Me and my husband were watching TV. And I got up  
24 like probably every five minutes to look out the window to  
25 see if he had come back, because he -- he scared me.

1 Q. Now, you and Quindarius' mother actually  
2 started talking; is that right?

3 A. She contacted us when -- I don't remember.  
4 There was some fight that they had. But we, I mean, we  
5 weren't friends or anything like that. We talked a couple  
6 of times, yeah.

7 Q. Okay. And you and Quin's mother had agreed  
8 that the two of them didn't need to see each other?

9 A. Yes, definitely.

10 Q. Okay. But would it be fair to say that  
11 Melissa and Quin kept sneaking around seeing each other --

12 A. Yes.

13 Q. -- anyway?

14 A. Yes.

15 Q. And by that time Melissa is 18 and --

16 A. She's 19 at that time.

17 Q. 19 at that point? And Quin is also?

18 A. I think he's the same age.

19 Q. Right. So it was hard for you and his mother  
20 to keep these two from seeing each other?

21 A. Exactly.

22 Q. Okay. During the time that -- so October of  
23 2016 she has her own house, and she's living with Quin. And  
24 would -- did it seem to be a volatile --

25 A. Yes.

1 Q. -- relationship?

2 A. Yes.

3 Q. Okay. Two months later, December of 2016, did  
4 something occur with Melissa?

5 A. She -- we called to check on her all the time.  
6 My husband couldn't get ahold of her. And Quin -- I believe  
7 how it happened was Quin called like later that afternoon  
8 and said that Melissa was at the Pavilion at West Florida  
9 Hospital. She had taken a lot of her medicines and tried to  
10 kill herself.

11 Q. Okay. So this second baker act was in  
12 December of 2016?

13 A. Yes.

14 Q. Okay. And she was at the Pavilion?

15 A. Yes.

16 Q. Where?

17 A. In Pensacola.

18 Q. Pensacola?

19 A. Yes.

20 Q. At that point did she move out of the  
21 apartment and back into your house?

22 A. She did. She would try to make it work. She  
23 would come to our house and just all the time upset. And  
24 the way I explained it is, I mean, he was sucking the life  
25 out of her. I just saw her going down, and down, and down,

1 and down. And she finally made the decision, "I'm going  
2 home." And he stayed in the apartment. And he just showed  
3 up, and just started dumping all of her stuff on our front  
4 porch. And I was like, "We will come get that stuff at an  
5 appropriate time," but he just -- he just kept coming back,  
6 just kept coming back dumping everything -- all of her  
7 belongings. And she -- she come home December the 15th, is  
8 when she came home. And then I believe he -- the rent was  
9 due January 1st, so before that rent had to be paid he moved  
10 out, too.

11 Q. Now, was there -- okay. So January of 2017 he  
12 moves out?

13 A. Yes.

14 Q. She's still living at home?

15 A. Yes.

16 Q. Okay. Now, what has happened? Her C.N.A. --  
17 she had actually gotten a job as a C.N.A., right?

18 A. Yes.

19 Q. And where had she gotten that job?

20 A. She's working at Southern Oaks.

21 Q. Okay. So as soon as she got a certification  
22 she was able to get a job?

23 A. Yes.

24 Q. And she kept that job for almost -- was it  
25 almost a year?

1 A. Probably about nine months.

2 Q. Okay. She started October of 2015?

3 A. No. She quit November of '16.

4 Q. Okay. So that would be a year and one month.

5 And do you know why she quit?

6 A. What she -- I can only go by what she --  
7 because she was not living with us at the time. She told me  
8 that Quin wanted her to quit. He told her to quit her job.

9 Q. Okay. So 2017 she no longer has a C.N.A. job.  
10 She's now moved in with you?

11 A. Yes.

12 Q. She's gone through this relationship with  
13 Quin. And can you tell the judge what her -- what you  
14 observed in your daughter in January of 2017?

15 A. Well, she was baker acted again. Me and my  
16 husband had went to church. We were out --

17 Q. So this is a third baker act?

18 A. This is a third -- yes. This is the third  
19 baker act. Me and my husband went to church. We went out  
20 to eat. We were at the restaurant. I got a call from the  
21 Milton Police Department that they had been called to our  
22 home because Melissa had tried to kill herself. She had  
23 drank a lot of chemicals we had under the sink, and she took  
24 pills. And she had put it on FaceBook live. And so they  
25 saw it, and they called the police department. And so she

1 was baker acted again.

2 Q. Okay. And when she was baker acted, how long  
3 did she stay in?

4 A. At that point probably just for 30 days.

5 Q. Okay. Now, as a consequence of this you guys  
6 began counseling or she went to counseling at Santa Rosa  
7 Counseling Center?

8 A. I believe that's when she started it, yes.

9 Q. Okay. And the counseling center was different  
10 than Lakeview. Was Lakeview primarily to monitor her meds  
11 and then the Santa Rosa Counseling Center was to give her --

12 A. Yes.

13 Q. -- counseling for her judgment insight --

14 A. Yes.

15 Q. -- to help cope with a mental illness?

16 A. Yes. Lakeview manages medicines. There's a  
17 psychiatrist, and a psychiatrist monitors her medicines.  
18 She goes to the psychiatrist every three months.

19 Q. Okay. But then Santa Rosa was to address the  
20 mental health --

21 A. Yes.

22 Q. -- issues?

23 A. Yes.

24 Q. Okay. Was that something that she voluntarily  
25 was seeking to do?

1           A.    Uh-huh.

2           Q.    Okay.

3           A.    Yes.

4           Q.    And she continued with Santa Rosa Counseling.

5   And then almost a week later -- we have a week after she  
6   gets out of being baker acted we have this -- the reason  
7   we're here today?

8           A.    Yes.

9           Q.    February 5<sup>th</sup>, 2017?

10          A.    Yes.

11          Q.    And tell me what -- when you first became  
12   aware of something occurring on February 5<sup>th</sup>, of 2017?

13          A.    Well, that was the same time that the Boyette  
14   was --

15          Q.    Yes.

16          A.    -- on his spree. So we're at home. Melissa  
17   gets home about 11 I think. I don't remember the exact  
18   time. Me and my husband were in bed, and I heard her come  
19   in. And she told me she was home and so I stayed in bed,  
20   but then our dog started barking. And so I got up, and  
21   there was like all these lights all over our neighborhood  
22   all around our home.

23          Q.    Police lights?

24          A.    Police lights. And so my first thought was  
25   that they had found him, and he was in our neighborhood.

1 Q. Boyette, the serial killer?

2 A. Yes, yes. And so we start looking out the  
3 window. And then the lights were real bright. And us being  
4 naive, it's like we didn't realize they were -- they were at  
5 our house.

6 And so we start hearing for us to come out of  
7 the house. And so my husband, who was up at that time, my  
8 son had come out, and my husband opened the door, and they  
9 just started yelling at him put his hands up, put his hands  
10 up, put his hands up.

11 And my husband is walking out, and he's trying  
12 to like pull his pants up. And they're like yelling at him  
13 telling him that, you know, "Keep your hands up, keep your  
14 hands up." So Johnny is trying to keep his hands up, and  
15 we're not understanding anything that's going on.

16 Melissa comes out with her dad. They  
17 immediately put her in the cop car. And then later we find  
18 out they just -- they tell us a crime had been committed  
19 with her car, is what they said.

20 Q. She was taken down to the police station?

21 A. Yes.

22 Q. Okay. And I know you don't know what happened  
23 at the police station --

24 A. Right.

25 Q. -- so I'm not going to ask you about that.

1 But then she was released from the police station. She was  
2 not arrested, correct?

3 A. Correct.

4 Q. Okay. And this is in February of 2017?

5 A. Yes.

6 Q. Between February of 2017 and the time that she  
7 was arrested in April --

8 A. Yes.

9 Q. -- of 2017 --

10 A. Uh-huh.

11 Q. -- can you tell the judge what happened during  
12 those three months --

13 A. Okay.

14 Q. -- as far as -- and I want to talk about two  
15 things -- well, let me back up. Did she continue to  
16 cooperate with law enforcement during those three months?

17 A. Yes.

18 Q. Did she continue to check in with  
19 Investigator --

20 A. Yes.

21 Q. -- Mistovich? Did she make herself available  
22 at all times?

23 A. Yes.

24 Q. Okay. Now, three weeks after February 5<sup>th</sup>,  
25 of 2017, what happens with Melissa?

1           A.     She told us that she felt like harming herself  
2 again.

3           Q.     So now we're talking baker act number four?

4           A.     Yes. So we drive to Pensacola with her in the  
5 car. And we go to the Pavilion. A nurse comes walking out,  
6 and I'm like, "I don't know what to do. She says she wants  
7 to hurt herself. What --" you know. And they said take her  
8 to the emergency room. So we took her to the emergency  
9 room, and so she was admitted.

10           I didn't see Melissa for like a week at that  
11 point. Normally those facilities are designed for a three  
12 to five-day stay. They could not let her go. She was at  
13 the Pavilion for three weeks, because they could not get her  
14 stable.

15           Q.     At this point this was after she had, you  
16 know -- she had not been arrested, but she had learned that  
17 her car had been used. And as a consequence Mr. Buckhalter  
18 had been killed?

19           A.     Yes.

20           Q.     Mr. Nairn had been shot?

21           A.     Yes.

22           Q.     Ashley Johns had been shot?

23           A.     Yes, yes.

24           Q.     So they couldn't stabilize her?

25           A.     No. In fact they told me -- at one point,

1 when I called, they told me she was deteriorating. And she  
2 was deteriorating fast.

3 Q. You made a decision to do -- based on their  
4 recommendation what did you guys do as a family?

5 A. We knew that she needed help at that point.  
6 We knew all these years that we felt like it was her being  
7 rebellious, that it was just this build up of her mental  
8 illness, of her mental state; and we knew that she needed  
9 help. She was sick. She was sick. That's what the problem  
10 was, she was sick, and we knew that she needed to go  
11 somewhere. She needed to be we felt like somewhere for at  
12 least three months to try to get this under control, do the  
13 counseling, whatever they said needed to be done.

14 And so we started checking with the insurance  
15 company. It's very hard to help somebody with mental  
16 illness. It is very difficult, between insurance, the  
17 facilities they need to go to, being properly diagnosed.

18 So we found out about a facility in  
19 Jacksonville. And so we ended up taking her to that  
20 facility. We actually -- there could be no lapse. We  
21 picked her up on a -- on a -- I don't know what day of the  
22 week. It was 5:00 in the afternoon, and we drove all  
23 night -- it takes like five or six hours. We drove -- we  
24 got there like 2:00 in the morning, because they couldn't  
25 transport her by ambulance. And we couldn't -- there could

1 be -- like, she had to be there within a certain period of  
2 time. So me and my husband, we went and picked her up, and  
3 we drove her to Jacksonville. And they admitted her there.

4 Q. And this is in -- this is February of 2017?

5 A. Yes.

6 Q. And then how long did she stay at this  
7 residential facility in Jacksonville?

8 A. She -- come to find out it wasn't -- they  
9 couldn't keep her that long. They could only keep you there  
10 if you were there for drugs or alcohol. And so they ended  
11 up keeping her for five days.

12 Q. And then you had -- you picked her back up?

13 A. Yes.

14 Q. And brought her home?

15 A. Yes.

16 Q. Now, when she was brought home, was that  
17 this -- when she was baker acted this fourth time, after the  
18 incident, this was the first time that she was diagnosed  
19 with borderline personality disorder?

20 A. Yes, and bipolar.

21 Q. And bipolar?

22 A. Uh-huh.

23 Q. Okay. And she was put on different  
24 medications?

25 A. A lot of medications at the Pavilion.

1           Q.     And you saw a difference in her with the  
2 medications?

3           A.     Yes. At first -- when I saw her for the first  
4 time, after they put her on these medications at West  
5 Florida Hospital, the first -- after that first week, she  
6 was like a zombie. It's like that -- she -- she was like a  
7 walking zombie. And then I guess her body, because she was  
8 never taken off all of these meds, and I think her body must  
9 have just got used to them. And then, you could, you know,  
10 she wasn't like that any longer. And then it was  
11 controlled.

12           And then, when we went to the Avalon Center to  
13 see the psychiatrist for the first time after she had gotten  
14 back from Jacksonville, I asked her, I said, "Will we ever  
15 have to go through anything like we've been through in the  
16 last three months with her?" And she said, "These  
17 medications will control that."

18           Q.     Okay.

19           A.     She said, "No."

20           Q.     And that's my next question, is that since she  
21 received that proper diagnosis and the proper medication  
22 have you had any other incidences where she has been bAKER  
23 acted --

24           A.     No.

25           Q.     -- since then? Okay. Has -- now she not only

1 continued with Lakeview but continued with counseling,  
2 correct?

3 A. Yes.

4 Q. Did you -- in your opinion was she making a  
5 concerted -- a diligent concerted effort -- a real effort to  
6 understand her mental illness and to -- and to follow  
7 through with the treatment?

8 A. Yes.

9 Q. Okay.

10 A. Yes.

11 Q. Now, in April of 2017, okay, she's still going  
12 to counseling. She's still cooperating with the State. And  
13 at some point a state attorney and investigator come over to  
14 talk to her?

15 A. Yes.

16 Q. Amy Shea and Wayne Wright?

17 A. Yes.

18 Q. She gives -- she answers any questions they  
19 have?

20 A. Uh-huh.

21 Q. And then at that point subsequently is she  
22 arrested?

23 A. Yes.

24 Q. Okay. She is then arrested, and she is -- she  
25 stays in there for a few months?

1           A.     Yes.

2           Q.     And then is bonded out?

3           A.     Yes.

4           Q.     Tell me about from the time she was bonded out  
5 until over a year and-a-half later, when she went to trial,  
6 did she continue to follow through with counseling and with  
7 her medications?

8           A.     Yes.

9           Q.     Any baker acts?

10          A.     No.

11          Q.     The -- your -- when you -- you spoke with her  
12 treating physicians or --

13          A.     Yes.

14          Q.     -- her treating doctors? And did they seem to  
15 be under the impression or did they tell you that now that  
16 we have a proper diagnosis she can be rehabilitated, and  
17 we're not going to have these, you know, back-to-back baker  
18 acted and this --

19          A.     Yes.

20          Q.     -- instability?

21          A.     Yes.

22          Q.     Okay. My next question to you is tell me  
23 about her feelings and her thoughts about the death of  
24 Thomas Buckhalter, and the injury to Ashley Johns, and the  
25 injury to Jermun Nairn.

1           A.     She has remorse for that.  She -- when she --

2           Q.     How do you know that she has remorse?

3           A.     When I picked -- whenever she got -- she was  
4     in the Pavilion for the last time and did a lot of crafts,  
5     she loves -- she loves crafts, and painting, and making  
6     stuff.  And she was -- she got out of the pavilion, and she  
7     had this black bracelet -- this black band on.  And I  
8     remember asking her, I was like, "What -- what is -- you  
9     know, did you make that?"

10          Q.     "What's this black band?"

11          A.     "What's this black band?"  And she said,  
12     "Yeah, Mom."  She said that she was wearing that black band  
13     because she never wanted to forget about what happened and  
14     that that was like -- I don't want to say like in honor.  It  
15     was just a remembrance.  And she mentioned Mr. Buckhalter  
16     and that -- and Ashley Johns.  And it was just something  
17     to -- I don't know -- I don't know how to explain it.

18          Q.     Did she feel guilt over --

19          A.     Yes, yes.

20          Q.     Was that something else that was addressed at  
21     counseling?

22          A.     Yes.

23          Q.     Now, was there also an endeavor on her part to  
24     try to understand why she -- going back in time why she made  
25     the decision she made that night?

1 A. I'm sorry. Can you repeat that?

2 Q. Yeah. Did she want to try -- did she go --  
3 when she was going through counseling, did she also try to  
4 go back and figure out why she made the decision she made  
5 that night?

6 A. Oh, yeah.

7 Q. Okay.

8                   A.        Relive it, yeah, talk about it. I mean, you  
9                   know, as her mom, it's not something that happens and you  
10                  just let it go. I mean, we talked about it all the time,  
11                  why did it happen? How did it happen? You know, what could  
12                  we have done to prevent it from happening? What could she  
13                  have done? You know --

14 Q. Okay.

15 A. -- all that stuff.

16 Q. Do you have a statement that you wanted to  
17 read to the Court?

18                   A.        Yes, to Judge Rimmer. I'm sorry. Let me wipe  
19 my nose real quick.

20 Judge Rimmer, when Melissa was arrested in  
21 April 2017, we became aware of the fact that you would be  
22 the judge in her case. At that point our family began  
23 praying for you on a daily basis. We have been in constant  
24 prayer for everyone involved in this incident. We have  
25 prayed for the victims' families, the victims, everyone

1 involved.

2                   I want to thank you for reducing Melissa's  
3 bail back in 2017 to an amount that was reasonable. And we  
4 were able to borrow money to allow her to come home. That  
5 decision on your part changed Melissa's life dramatically.  
6 Melissa's story is not the end of the story you heard at her  
7 trial. She deals with mental health issues and will  
8 continue to do that for the rest of her life.

9                   Melissa's state of mind from November 2016  
10 until after the shooting in February 2017 was very frail,  
11 and suicide was at the forefront of her mind. To say her  
12 life was spinning out of control is an understatement. She  
13 was hospitalized three times during that period for mental  
14 health issues.

15                   While hospitalized after the February incident  
16 God started working on her. You see, Melissa was raised in  
17 a Christian home. Our children were raised to know right  
18 from wrong and to serve the Lord. However Melissa being  
19 straying from that path in her teen years, she actually  
20 became mad at God, and her life started to show that. After  
21 the incident, she started to allow God back in.

22                   In March of 2017 Melissa was transferred from  
23 the Pavilion in Pensacola to a facility in Jacksonville.  
24 She was gone for approximately one month between the two  
25 places. God was still working on her during this period.

1                   When she finally come home, one of the first  
2 things she wanted to do was to go back to church. She was  
3 also finally properly diagnosed and placed on the proper  
4 medications for her mental illness. Mental illness is just  
5 that, an illness. There became a point in this period that  
6 I knew that Melissa was very, very sick. She needed help,  
7 and she had to fight hard to get her that help.

8                   Once Melissa came home from her hospital stay  
9 she wanted to find her own church, not the one we had  
10 attended as a family. We started visiting a local  
11 Pentecostal church. We were there for maybe two weeks and  
12 Melissa was arrested. She was in jail for almost two months  
13 until the hearing which allowed her to come home.

14                  Melissa picked up where she left off starting  
15 attending church again. Melissa started attending a new  
16 members class, and she became a member of that church.  
17 Melissa became very involved in the young adult ministry  
18 there. You had allowed her to do anything that involved  
19 church, so she was able to build strong relationships with  
20 good people.

21                  This young adult ministry also has their own  
22 worship service on Wednesday night, and Melissa became a  
23 part of the music ministry, and started leading worship with  
24 three others and band members. She continued to do this  
25 until her conviction on November 15th. In fact she stood on

1 stage at church the day before her conviction singing and  
2 praising the Lord, and leading people into his presence.

3                   We have watched Melissa grow into a leader.  
4 Her heart and passion has now become helping young girls  
5 make positive decisions in their lives, and not go down the  
6 road she took herself. We have watched her at church speak  
7 to a teenage girl about a bad decision the girl made to  
8 speaking with a teenage boy during one of her weekly  
9 check-ins for her G.P.S. monitoring about changing his  
10 decisions and the choices before he ends up like she has.

11                  Melissa realized the direction her life had  
12 taken that got her into a situation that she should never  
13 have been a part of. She still to this day claims that she  
14 did not know or plan the outcome of events of that Saturday  
15 night in February, and I believe her.

16                  I pray you give Melissa the chance to make a  
17 difference in this world. Sometimes people make bad  
18 choices, and they suffer the consequences, and their life  
19 goes on. Melissa is an example of someone who made bad  
20 choices, has realized the choices made, and is trying to use  
21 the situation for good.

22                  Melissa left our home on that Saturday night  
23 in February in the back of a police car with us telling her  
24 one thing, "tell the truth." That is why Melissa talked as  
25 she continued to talk. We knew the right thing to do was

1 for her to tell the truth and the whole story.

2                   Judge Rimmer, you had a major impact on where  
3 Melissa is today. And again, I want to thank you for that.  
4 Thank you for allowing us to have her for this past year  
5 and-a-half. So many people have born into her and prayed  
6 for her. She has allowed God to work in her life, and we  
7 praise Him for that.

8                   I ask that you please show mercy to Melissa.  
9 I ask that you please see Melissa's heart and this incident  
10 for what it was, a 19-year-old girl that was going through a  
11 severe crisis. She was out of the will of God, struggling  
12 with mental health issues that were not being treated, and  
13 made decisions that showed lack of judgment.

14                   I will never forget the words Detective  
15 Mistovich said to me when we finally were able to bring  
16 Melissa home after hours of interrogation in February. He  
17 said, "She is a very insecure young lady." That was his  
18 first statement to me. It wasn't, "This was a serious  
19 situation." It wasn't anything about the crime. It was,  
20 "She is a very insecure young lady."

21                   I believe in Melissa's deepest, weakest,  
22 darkest day she was shown attention by people that  
23 unfortunately were not looking out for her best interest.  
24 She was used and allowed herself to be used by many.

25                   Prison is a very scary, dark place. No mother

1 wants her child to experience jail or prison. I have  
2 learned that there are four major purposes for prison. The  
3 first is punishment for the crime and depriving someone of  
4 their freedom. Melissa has lived the last two years either  
5 on house arrest or jail. Her freedom was stripped that  
6 night in February. Her car and phone were taken by the  
7 police department. She was instructed by Detective  
8 Mistovich to call him daily to check in. He also instructed  
9 her note to go on social media. As her parents, we kept her  
10 close and she was not allowed to go anywhere without us.

11                   Then in April 2017 she was arrested. After  
12 her release, her life was being at home with her dad on a  
13 daily basis. You put major restrictions on her also.

14                   The second purpose of prison is deterrence,  
15 teaching someone a lesson so that person will not commit  
16 future crimes. Jail had a major impact on Melissa's life  
17 and continues to do so. The two months she was there before  
18 she was bonded out was life changing. Once she was released  
19 she told me she would never do anything to be sent there  
20 again. Her deterrent only took two months.

21                   Now Melissa finds herself in jail again.  
22 Melissa has been a law-abiding citizen since the incident.  
23 She sets examples and wants to help her community.

24                   The third purpose of prison is to send a  
25 person there so they cannot harm innocent people. Melissa's

1 heart and non-judgmental attitude towards others is  
2 overwhelming. Two recent examples of this have happened  
3 while she has been in jail. Melissa's attorney shared with  
4 me that after she visited Melissa for the first time after  
5 her conviction, Melissa shared with Ms. Cashwell how  
6 concerned she was for her fellow inmate that was pregnant in  
7 medical with Melissa. She was concerned about the care this  
8 lady was receiving.

9                   Also just last week Melissa expressed to me  
10 her concern for another inmate who was going to be released  
11 and had nowhere to go. She told me, "Mom, we need to help  
12 her." She hates social injustices and has a heart for  
13 people that cannot fight for themselves. She wants to be  
14 the voice for people who do not have a voice.

15                   The last purpose for prison is rehabilitation,  
16 changing criminals into law-abiding citizens and offering  
17 counseling. Again Melissa follows the rules. I do not know  
18 if you are able to read the letter written by court  
19 alternatives, but the last statement on that letter reads,  
20 "Ms. Pocopanni was a pleasure to have on our monitor and  
21 exemplifies the qualities we wish every client would have."

22                   Thank you, Judge Rimmer, for the time to plead  
23 for my daughter. I pray you give her the chance to have a  
24 life outside of prison walls. I know there are consequences  
25 to actions, however I believe a long prison sentence for

1       Melissa would not accomplish the four purposes prison is  
2       designed for. Those four purposes have already been  
3       fulfilled.

4               MS. CASHWELL: I have for further questions.

5               MR. GORDON: No questions, Your Honor.

6               THE COURT: All right. Ma'am, you may step  
7       down.

8               MS. CASHWELL: I call her father, Johnny  
9       Pocopanni. And, Your Honor, he just had surgery last  
10      week, so his voice -- he's having problems with his  
11      voice, and he's very soft spoken right now.

12         THE COURT: Okay.

13         THE WITNESS: Your Honor, I can't hardly talk.

14         THE COURT: That's all right. Would you raise  
15      your right hand.

16               (Witness sworn)

17         THE WITNESS: Yes, sir, I do.

18         THE COURT: Thank you. Please have a seat.  
19         Please state your name and spell your first and last  
20      names.

21         THE WITNESS: Johnny Frank Pocopanni --

22         MS. CASHWELL: Okay.

23         THE WITNESS: -- J-O-H-N-N-Y  
24         P-O-C-O-P-A-N-N-I.

25         WHEREUPON,                           JOHNNY POCOPANNI,

1 having been first duly sworn, was examined and testified as  
2 follows:

3 DIRECT EXAMINATION

4 BY MS. CASHWELL:

5 Q. And, Mr. Pocopanni, what is it that you want  
6 to tell the Court about your daughter, Melissa? Do you have  
7 a statement you want to read?

8 A. I do --

9 Q. Okay.

10 A. -- if you don't mind.

11 Q. Yes, sir.

12 A. The first thing I'd like to say is thank you  
13 for giving me the opportunity to sit here and talk to you,  
14 okay?

15 THE COURT: Okay.

16 A. The second thing I want for say is to the  
17 families that are all involved in this, you may not believe  
18 it, but I swear I'm so sorry all of this has happened. If I  
19 could take it back and take it on myself, I would, but I  
20 can't. Only God can do that.

21 I'm very sorry. I can't feel the pain that  
22 you feel, and you can't feel the pain that I feel; but I'm  
23 Melissa's father. And like my wife had stated before, we  
24 were having trouble conceiving children. And I was 46 years  
25 old when I adopted Melissa. People told me I was crazy.

1                   And from what I understood that the birth  
2 mother had 24 hours to make her mind up, whether she wanted  
3 to actually let her go or not. Well, we got a call that  
4 night from the hospital saying that she had a hole in her  
5 heart and a valve was messed up, and we -- they asked us  
6 about her, and I said, "I wouldn't trade her for the world,  
7 bring her home."

8                   She's been my daughter, and I'm very proud to  
9 say she's been my daughter. She loves Jesus Christ, and she  
10 knows right from wrong. I do believe she got misled in a  
11 lot of stuff. And I'm here to tell you in my heart that I  
12 do believe that she didn't have no idea what was going to be  
13 going on in that car. I believe she was used for that car,  
14 which was all for evil; and unfortunately families were torn  
15 apart through this. And I know beyond a shadow of a doubt  
16 she would not -- she let somebody borrow her car a couple  
17 weeks before, and it took us four days to get it back. They  
18 parked it at a Dollar General parking lot one time and so --

19               Q        (By Ms. Cashwell) And, if I could ask you about  
20 that, the incident that happened a couple weeks before,  
21 where somebody had borrowed her car and it took you four  
22 days to locate it, did you and your wife then put a  
23 prohibition on or rule on Melissa that she was not allowed  
24 to loan out her car?

25               A.      Yes, ma'am.

1 Q. And she had to be in her car at all times?

2 A. Absolutely.

3 Q. Okay.

4 A. Because --

5 Q. If somebody else wants to drive it or use it,  
6 she's still got to be in the car?

7 A. Absolutely, because who is going to be in that  
8 car besides her? Nobody is no, you know, is up to no good I  
9 don't think. And -- but like I said, we had no idea this  
10 was going to take place that dreadful night.

11 And I know, Judge, my daughter has a call on  
12 her life about Jesus. And a lot of people said that, you  
13 know, jail house religion, her religion came from a cross  
14 2000 years ago. That's the way I feel about it. And you  
15 can tell that by the way a person lives, you know. I've  
16 been with her for 19, 20 years; and I could tell a change  
17 from bad to good, if that makes sense to you. And I saw a  
18 change in her.

19 And I -- I'm not saying she's perfect but she  
20 just got involved with the wrong crowd. She's a little  
21 overweight, and she -- you know, they tell her how pretty  
22 she is and all that stuff, and get -- that's the way I feel  
23 about it. And she should have never been there. I will  
24 agree with that, and I am so sorry to you all that all this  
25 happened.

1                   This is out of context, but can I say  
2 something?

3                   THE COURT: Sure.

4                   A. I've been thinking about you, Mr. Johns, about  
5 that you and I could make a difference in Milton here,  
6 somehow -- me and you. Whether to go on out through these  
7 houses, up in that area and just talking to people,  
8 educating people, you know, because we've both got problems  
9 here.

10                  And I have thought -- I have prayed -- I have  
11 prayed for your family and the Buckhalter family. Me and my  
12 wife pray for you every morning. But I do think it's people  
13 like me and you that need to step up to the plate and go  
14 start to try to minister to these people out there, just,  
15 you know, "Look where your life is going -- look where my  
16 life -- my daughter's life is going," you know. But I think  
17 God has put that on my heart that -- and you probably -- I  
18 don't know whether you want to or not, but I'd sure like to  
19 talk to you about it. That we -- only you and I could do  
20 something good to Santa Rosa County or even Escambia County.

21                  Q     (By Ms. Cashwell) Do you want to read your  
22 statement?

23                  A. Yeah. It's the whole thing -- okay. My name  
24 is Johnny Pocopanni, I'm the father of Melissa Pocopanni.  
25 Judge Rimmer, I come to you today begging and asking you for

1 leniency in sentencing of my daughter today. I truly  
2 believe in my heart that Melissa had no idea of what was  
3 going to take place on that dreadful night. I am deeply  
4 sorry for the heartache that all the families have endured  
5 because of that night.

6                   Judge, I know that God has a call on my  
7 daughter's life. She's not a bad girl. She just got  
8 involved with the wrong people, and got involved with the  
9 wrong ideas, and I'm asking you to please have mercy on her  
10 sentence. That's it.

11                  MS. CASHWELL: Thank you. I have no further  
12 questions.

13                  MR. GORDON: No questions.

14                  THE COURT: Thank you, sir. You may step  
15 down.

16                  THE WITNESS: Yes, sir.

17                  MS. CASHWELL: I call Ashley Murcko.

18                  THE COURT: All right. Ma'am, would you raise  
19 your right hand.

20                  (Witness sworn)

21                  THE WITNESS: Yes, sir.

22                  THE COURT: Thank you. Please have a seat.

23                  Please state your name and spell your first and last  
24 names.

25                  THE WITNESS: Ashley, A-S-H-L-E-Y, Murcko,

1 M-U-R-C-K-O.

2 WHEREUPON, ASHLEY MURCKO,  
3 having been first duly sworn, was examined and testified as  
4 follows:

5 DIRECT EXAMINATION

6 BY MS. CASHWELL:

7 Q. Okay. And, ma'am, how old you, and where do  
8 you work?

9 A. I'm 43 years old. I work at Members First  
10 Credit Union.

11 Q. Okay. And how long have you worked there?

12 A. From 95 until now. I have a 10-year break in  
13 there, but off and on since then.

14 Q. And how long have you known Melissa and what's  
15 the relationship between the two of you?

16 A. So Johnny is my dad and she's my little sister  
17 by adoption.

18 Q. Okay. And have you prepared a statement that  
19 you want to read to the Court?

20 A. I have.

21 Q. Okay. Do you want to go ahead?

22 A. Yeah. My name is Ashley Pocopanni Murcko.  
23 Melissa Pocopanni is my sister through her adoption by my  
24 dad, Johnny Pocopanni, and stepmother, Cindy Pocopanni,  
25 since the day of her birth.

1                   First, I want to say that my family and I pray  
2 for those who have lost their loved ones and those who have  
3 been injured in this senseless act. Anything that I say in  
4 defense of my sister does not discount the hurt and pain  
5 that you may feel.

6                   My dad and his family have been in Tampa for  
7 over 20 years until they recently made the move to Milton a  
8 few years back, so due to the drastic age difference between  
9 Melissa and I our relationships were Christmases and  
10 vacations.

11                  But I have two children that are the same  
12 exact age as my siblings. They all played well together.  
13 But I didn't know Melissa as well as I wanted to, because we  
14 didn't live close together, but since they moved back I know  
15 Melissa had struggled to the whys of her life, and I know  
16 you've already heard about her molestation, and her abuse,  
17 and even just being adopted. You know, there's got to be  
18 something mentally that hurts you, because you're given up.  
19 I don't want to say she was given up, but she was blessed to  
20 have my parents, but, you know, it's just a lot to handle;  
21 but these things have been burdens that she's had to deal  
22 with for her whole life.

23                  And I learned more today about her trying to  
24 take her own life. I knew of twice. I didn't realize there  
25 was that many other times, but we have a praying family, and

1 ever since this tragedy we've earnestly been preying for the  
2 family. We prayed for the jury, and we've prayed for you;  
3 but we also pray that Melissa would see what she was doing  
4 and give her heart to the Lord, that no matter where she was  
5 that she knew who God was. We knew where she was going in  
6 the end, that was most important.

7 So over the last year and-a-half Melissa has  
8 attended church with me at -- I've seen her change. I've  
9 just seen her just down -- and we are a Pentecostal church,  
10 so we're going to raise our hands and shout. And I've seen  
11 her just walk down to the front during praise and worship,  
12 and just lift her hands and praise God with all of her  
13 heart. And to know what she was before and to see what she  
14 transformed into, it did my heart so good.

15 And I appreciate my church for allowing her  
16 to -- and we have the type of church that they don't just  
17 let anybody do things, so they believed in her, too. And  
18 she has even requested many times for prayer for your  
19 families from our church.

20 I can't speak for why she was in the car that  
21 night, but I know she's turned around and want to have a  
22 better way. She's very young. She's never been in trouble  
23 before this. She was in the wrong place at the wrong time  
24 and made the wrong decision to be with the wrong crowd. So  
25 I prayerfully ask for leniency on Melissa's sentencing.

1 Please allow her the opportunity to prove herself worthy,  
2 because I know she's heartbroken and devastated by what has  
3 happened. And I want to be able to see a testimony used for  
4 her life. And that's all I've got.

5 Q. I've got one last question.

6 A. Yes, ma'am.

7 Q. Has Melissa had any conversations with you  
8 about any guilt that she feels about that night?

9 A. Honestly I'm not even going to be able to  
10 answer that, because me and Melissa have never talked about  
11 that night. I didn't feel comfortable to ever ask her, but  
12 I've felt times where I needed to kind of just pray for her  
13 and just talk to her just about her spiritual life. We  
14 never had discussions about that.

15 Q. Because it was a pending case?

16 A. That, but I just didn't feel the liberty to --  
17 I just didn't -- I didn't take that opportunity.

18 Q. Have you seen a change in Melissa since she  
19 was properly diagnosed and been on medication?

20 A. Definitely, just from hearing --

21 Q. Can you explain that to the judge?

22 A. Yeah. Just from hearing about her issues from  
23 my stepmother, behavioral, the things they would have to go  
24 through. And of course since that's my dad and he's older,  
25 I just always felt sorry for him because of his health

1 problems and having to deal with what he had to go through,  
2 and it hurt my heart; but I saw a change to where instead of  
3 hurting him she was his defender. She became his protector,  
4 his caretaker, and it was a whole change, a whole shift when  
5 she changed her life, yes.

6 MS. CASHWELL: Thank you. I've got no further  
7 questions.

8 MR. GORDON: No questions.

9 THE COURT: Thank you, ma'am. You may step  
10 down.

11 THE WITNESS: Thank you.

12 MS. CASHWELL: Your Honor, could we take a  
13 10-minute break?

14 THE COURT: Sure. All right. We'll be in  
15 recess until 11:45.

16 (Recess)

17 THE COURT: All right. Are you ready?

18 MS. CASHWELL: I guess. All right. Your  
19 Honor, the next witness the Defense would call is  
20 Doctor Julie Harper.

21 THE COURT: All right. Ma'am, would you raise  
22 your right hand.

23 (Witness sworn)

24 THE WITNESS: I do.

25 THE COURT: Thank you. Please have a seat.

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1 Please state your name and spell your first and last  
2 names.

3 THE WITNESS: Doctor Julie Harper, J-U-L-I-E  
4 H-A-R-P-E-R.

5 WHEREUPON, JULIE HARPER, M.D.,  
6 having been first duly sworn, was examined and testified as  
7 follows:

8 DIRECT EXAMINATION

9 | BY MS. CASHWELL:

10 Q. And, Doctor Harper, what do you do for a  
11 living?

12 A. I am a licensed psychologist in the state of  
13 Florida and Georgia, and I primarily practice in the  
14 forensic arena; and I do some clinical psychology as well.

15 Q. Could you tell us what your educational  
16 background is?

17           A.     Sure. I have a Bachelor's Degree in bio  
18 psychology. I obtained that from Oberlin College. I went  
19 on to get a Master's Degree in clinical and professional  
20 psychology, continued on at the University of Denver, and  
21 got a terminal degree of psychological doctorate.

22 I was licensed in Washington State initially,  
23 and during that period of postop-supervision I worked with a  
24 forensic psychologist, and that's where my interest in  
25 forensics began.

1                   In 2005 I moved to Florida, and I got licensed  
2 here, and took the position at Bridgeway Center, which is a  
3 community mental health center. During my time there I  
4 started working with the Department of Juvenile Justice  
5 performing program evaluations and working with youths who  
6 were facing, you know, going to a program because of their  
7 acts.

8                   And I started being asked to do competency  
9 evaluations for misdemeanor courts, so I left Bridgeway in  
10 2010 and opened a private practice, Northwest Florida  
11 Psychological Services. In my time there it was initially a  
12 clinical practice that grew into solely working in  
13 forensics, and in 2017 I got licensed in Georgia and took a  
14 job at -- for the State of Georgia, where I perform similar  
15 evaluations. That's my full-time job working in court-  
16 ordered evaluations for competency and criminal  
17 responsibility.

18                  Q.     So how many years of experience do you have in  
19 the field of forensic psychology?

20                  A.     I would say that I took my first forensic case  
21 on in about 2007. That's when I started working with the  
22 Juvenile Justice. I got the program contract and started  
23 really working in that way.

24                  Q.     And if you had to approximate, how many  
25 evaluations you have done?

1           A.     It's over 500. I'm not exactly sure. I  
2 stopped counting at some point, but yeah, it's over 500.

3           Q.     And have you testified as an expert in  
4 Escambia County?

5           A.     Yes.

6           Q.     And Santa Rosa County?

7           A.     Yes.

8           Q.     Okaloosa County?

9           A.     Yes.

10          Q.     And what other counties?

11          A.     Walton, West Palm Beach, Fort Myers -- I'm not  
12 sure what county that is -- Muskogee County in Georgia, Bay  
13 County -- oh, gosh -- Jackson County. There's another  
14 circuit 14 county, which is escaping me. I think it might  
15 be Holmes County.

16          Q.     Okay. Now, in this case what records did you  
17 review?

18          A.     I was able to review Ms. Pocopanni's Lakeview  
19 records, her Santa Rosa Counseling Center records, her  
20 Baptist medical records, the P. S. I., also the incident  
21 report. And I spoke to her mother on the telephone, so I  
22 had a third-party interview. And I believe that might be  
23 the extent of the records review.

24          Q.     Okay. And her records, and I just show you a  
25 binder that is about four inches -- I'm sorry -- about four

1       inches in depth. Is that about the size of her medical  
2       records that you've reviewed in this case?

3           A.     Yes.

4           Q.     So not just the Lakeview records that were  
5       supplied with the P.S.I. but also her Baptist and Santa Rosa  
6       records?

7           A.     Yes. It's --

8           Q.     Okay.

9           A.     -- a few hundred pages.

10          Q.     Now, did you also interview or meet with  
11       Ms. Pocopanni?

12          A.     I did.

13          Q.     Okay. And did you perform any testing with  
14       her?

15          A.     A mental status examination, which is standard  
16       practice, and also trauma symptom inventory was  
17       administered.

18          Q.     Okay. And what were the results of those two  
19       exams?

20          A.     In the mental status examination basically I  
21       was screening in or out symptoms of psychosis, which she did  
22       not demonstrate any symptoms of psychosis. Her attention  
23       concentration was adequate for the situation. There was a  
24       lot of noise the day that we were meeting, so she was  
25       slightly distracted by what was going in the halls for, you

1 know, any other people that were trying to work that day.

2                   She was intelligent. I felt that she was able  
3 to give good responses to my brief, you know, assessment  
4 questions. I didn't have any concern about her ability to  
5 participate in the evaluation.

6                   On the trauma symptom inventory her validity  
7 scale showed that she was participating validly in the  
8 assessment. She displayed what would be considered an  
9 elevation on ATR, which is a measure of numerous symptoms  
10 being endorsed at a high level. And so at that point  
11 because the test is a trauma symptom inventory, which she  
12 wasn't aware the purpose of it, you don't continue to score  
13 the rest of the test at that point, because the test is used  
14 for trauma, and there are multiple symptoms being reported,  
15 which are consistent with her multiple diagnoses that she  
16 has, mood and anxiety disorders.

17                Q. Now, did you also speak with anybody else such  
18 as a family member to get history?

19                A. I did speak with her mother by telephone, yes.

20                Q. Okay. And you already said you reviewed the  
21 arrest report, the incident report?

22                A. Yes.

23                Q. Now, based on your review of the records and  
24 based on your testing of her and speaking with her mother do  
25 you believe that she does in fact suffer from bipolar and

1 borderline disorder?

2 A. Yes. She has both of those conditions.

3 Q. Can you explain to the Court what, as far as  
4 Ms. Pocopanni is concerned, how her bipolar disorder would  
5 have played a role in this incident and how her borderline  
6 personality disorder would have played a role in this  
7 incident? Like what does that mean to us?

8 A. All right. Well, I think the first part of  
9 bipolar disorder that's more an explanation is the down part  
10 of bipolar disorder, so that's the depression. And a person  
11 can experience depression for a period of time and not know  
12 they have bipolar disorder, because they haven't yet  
13 experienced the up.

14 Some people seem to have a more predominant  
15 down phase of their bipolar disorder, and that's what I  
16 would consider Ms. Pocopanni to more often display symptoms  
17 of the down phase. So living with daily symptoms of  
18 depression, when it's active, would include things like  
19 having crying spells, a loss of motivation to do things,  
20 extreme insecurity about low self-esteem, whether people are  
21 responding to her in a positive manner. Being irritable can  
22 be a symptom of depression, when you're down. And having  
23 just a general feeling of things not working out for you,  
24 just hopelessness, feeling that, you know, no matter how  
25 much effort you may put into something it's not going to

1 really yield the result you're hoping. So that definitely  
2 shapes a person's zest for life, you know, feeling like you  
3 might as well go ahead and end it, since suicidal thinking  
4 is pretty common in that down phase.

5                   And when the depressive episode becomes very  
6 acute, as it did close in time, you know, to the death of  
7 the victim and other injuries that occurred, we would say  
8 that at that point a person has reached a point where they  
9 do not feel that their life is worth much value. So they  
10 don't really care what happens to them. They sort of lose  
11 that self care and concern. They don't value anything  
12 really in terms of harm to themselves, what somebody is  
13 going to do to them. They don't think in terms of long-term  
14 future, because they may end their life the next day.

15               Q.    So she's being exploded and used by these  
16 three young men that she was associated with, that she in  
17 her brain would think that's par for the course, "That's  
18 what I deserve?"

19               A.    Right, because she's already engaging in self  
20 injury. She has in the past. She's, you know, entertaining  
21 thoughts of hurting herself. So what someone else may do to  
22 her may not have really impacted her radar. She may not  
23 have really been considering that the way that a person who  
24 isn't in the midst of an acute depression would really think  
25 about that as treatment.

1           Q.     Now, how does the borderline personality  
2 disorder -- how did that impact her? What is that?

3           A.     So borderline personality disorder isn't  
4 diagnosed until a person reaches adulthood, but you can see  
5 signs and symptoms of it early on. And it's really a  
6 disorder that begins in the early developmental period.  
7 Usually zero to three is when some of the stage is set for  
8 that disorder. And that's because at that age there is some  
9 kind of breakdown, maybe a failed caregiving relationship,  
10 or there can be a variety of reasons, but essentially what  
11 happens is that the person doesn't develop that sense of  
12 safety when they are away from their attachment figure. So  
13 in this case it could be her parents, it could be a  
14 baby-sitter. It could be somebody who didn't make her feel  
15 safe to go and explore the world, which is, you know, the  
16 first part of your developmental process.

17           So what happens over time is that you don't  
18 feel secure in any situation. Your security is bound to  
19 somebody else reassuring you or somebody else, you know,  
20 giving you guidance overside corrections. Basically you  
21 don't have a sense of self that stays, you know, intact, so  
22 you don't know who you are. And that may affect your  
23 feeling or you're not able to reassure yourself that you're  
24 a good person even if you've made a mistake for instance or  
25 that if someone is angry with you that, you know, that

1 you're still forgivable or loveable.

2                   You know, there are aspects of  
3 self-reassurance that we all need to do, but somebody with  
4 borderline personality disorder really isn't able to provide  
5 that inner reassurance to themselves and feel that they're  
6 worthwhile. So they become dependent on outside sources of  
7 reassurance like other people. Sometimes they try to fill  
8 that inner void by things like sexual addiction or binge  
9 eating disorder is one. Sometimes people that are -- you  
10 know, have other like gambling disorders, they distract  
11 themselves.

12                   Substance abuse can be another way, just  
13 distract yourself from that internal dislike of oneself and  
14 really, you know, not finding any ways to make yourself feel  
15 happy in a consistent way. So you're dependent on  
16 environment to give you something to fill that void. And  
17 that's very uncomfortable, because certainly, you know, you  
18 can't expect your environment to fill in those internal gaps  
19 in any lengthy way -- maybe just temporarily.

20                   But then, if a person is dependent on a  
21 relationship to feel better and that relationship goes  
22 through some difficulty or demise, you can become very  
23 frantic to avoid being alone. And I think that's pertinent  
24 to this crime, because I do think that Ms. Pocopanni was  
25 filling in her inner discomfort by just being around almost

1 anyone that would distract her, keep her occupied, away from  
2 thinking about how much she hated herself and didn't like  
3 the way that her life was going, her internal pain that she  
4 was experiencing. She's trying to escape, and I think that  
5 the codefendants that she was associating with were people  
6 that would just cause her to go outside of her inner state  
7 for a moment, and it wasn't a positive coping mechanism, but  
8 that's what she was using.

9 Q. How did the bipolar disorder and the  
10 borderline personality disorder impact the capacity of  
11 Ms. Pocopanni to appreciate the criminal nature of the  
12 conduct?

13 A. I think the best example I could give you of  
14 the feeling of those mixed disorders would be if you've ever  
15 been almost in a car accident, a near miss feeling, and the  
16 rush of high adrenaline that you experience at that moment  
17 of just terror that something bad might have just almost  
18 happened. That feeling is something that a person with  
19 these two disorders lives with almost all day every day.

20 Q. That terror?

21 A. Terror. And so it's supremely uncomfortable.  
22 And if you go back to your basic needs for being safe, being  
23 secure, what you're going to find is that a person who can't  
24 reassure themselves and lives with that terror, it orients  
25 every step they take towards trying to soothe themselves or

1 solve that problem, and it sort of diminishes the ability to  
2 really look outside and to what we would say like in the  
3 higher key of needs, for instance, more advanced or mature  
4 aspects of life, which is like, you know, future planning or  
5 consideration of long-term consequences. That emotional  
6 sense overrides at that moment, and that's all the person is  
7 able to really focus on in dealing with that emotional  
8 state.

9 Q. So it's almost like being on fire, and they  
10 are looking for a way to put out the fire?

11 A. Urgently, yes.

12 Q. How did the bipolar and borderline personality  
13 disorder -- and I want to make sure that this is clear -- at  
14 the time of the shooting on February 5<sup>th</sup>, of 2017, she was  
15 not being treated for the borderline personality disorder;  
16 correct?

17 A. Correct.

18 Q. Because she had not been properly diagnosed.  
19 But how did those two disorders affect her capacity to  
20 conform her conduct to the requirements of the law? Was it  
21 substantially impaired?

22 A. Yes, because of the acuteness of the episode  
23 that she was experiencing. This was a down -- you know, the  
24 bipolar disorders downs are very severe low. And so it may  
25 even, you know, be over time a worsening load. So if you

1 experience a medium depression in teenage years, by this  
2 age, you know, it's getting lower and lower. Your baseline  
3 is getting reset. It's an acute instance of mood disorder.  
4 And I think that that would impair normal daily judgment  
5 about things. Again, you're sort of just existing in some  
6 ways, and you're not thinking as somebody who is more  
7 rational would be able to think. So I do think it did  
8 impair judgment.

9 Q. So like as a sex addiction or the binge  
10 eating, that's another way of putting out the fire?

11 A. Yes. It's a temporary distraction, or a balm,  
12 or a way to sort of deal with this troubling inner state by  
13 a distraction.

14 Q. Does Ms. Pocopanni require specialized  
15 treatment for those two mental disorders?

16 A. She does. As of October, I counted the number  
17 of psychotropic medications that she was being prescribed to  
18 stabilizes. And it was eight different medications, which  
19 is a very large number of medications.

20 Generally, you know, with the bipolar disorder  
21 you can find a cocktail of medications that might -- in  
22 records I see about three medications used. And you would  
23 rarely see an antidepressant. You will often see mood  
24 stabilizer, and you'll sometimes see sleep medication in  
25 addition.

1                   But this in case we've got a combination of  
2 medications that a psychiatrist would have to be very  
3 carefully monitoring these medications, because they may  
4 serve cross purposes in some ways, if they're not expertly  
5 handled.

6                   So we've got medications that include, you  
7 know, anxiety relief, mood stabilizers, anti-psychotic  
8 medications, which are all used to stabilizes mood, and  
9 severe depression, an antidepressant, which means they are  
10 risking sending her into mania to try to break through that  
11 depression it's so bad at that point.

12                  So several of these, you know, will have a  
13 similar effect to try to break through the mood cycle. And  
14 she will require that careful combination of medications her  
15 entire life. It's not like she can stop taking medicine and  
16 move on. This is a chronic mental health condition. It's a  
17 cyclical mood disorder that's not going anywhere, even if  
18 she doesn't -- you know, I know speaking with her she does  
19 understand she needs to take the medication, but for people  
20 that are a little bit maybe less insightful about their  
21 mental health condition, they may decide that they don't  
22 need medicines anymore. That's not an option for  
23 Ms. Pocopanni. She's absolutely going to need to take  
24 medication.

25                  And the therapy that was the last, you know,

1 helpful piece of her treatment plan that was added is  
2 absolutely an essential piece, because that will help her  
3 learn different coping skills. Medication will help  
4 suppress symptoms to a point, but if you don't go through  
5 that your past trauma with your therapist in a careful way  
6 and kind of talk about, you know, things that have happened  
7 to you and why you may live in that near fear anxiety, you  
8 know, state every moment, that's going to kind of shape your  
9 future decision making. So this is very important that she  
10 has an opportunity to talk about, you know, when authority  
11 figures let her down and betrayed her trust in early age.

12                   And she also went through a very abusive time  
13 previous, you know, to the death of Mr. Buckhalter, because  
14 of the relationship that she was in, in which she endured  
15 abuse. And she needs to work through that trauma so that  
16 she can have a more calm and steady state.

17                   Q.     So the medication will help her -- will help  
18 somewhat dampen the symptoms and balance her, but then I  
19 guess if there's something called dialectal behavior  
20 therapy, is that for the borderline personality disorder?

21                   A.     Yes.

22                   Q.     And is that something that then helps her with  
23 judgment and insight?

24                   A.     Correct.

25                   Q.     And can you explain to the judge why that's a

1 necessary component?

2           A.     Sure.  So dialectal behavior therapy is a  
3 cognitive behavioral therapy, and it is the preferred  
4 mechanism of treatment when you've got borderline  
5 personality disorder, because the goal is that you don't  
6 reward or reinforce negative coping.  So if the person often  
7 turns to suicidal ideation as their coping mechanism, the  
8 therapist is instructing the patient, "I am not going to  
9 reinforce you, if you choose to cut yourself today.  But if  
10 you choose to call your mom, or go for a walk, or something,  
11 then I'm going to give you more time and attention.  You can  
12 have a telephone contact with me after you've worked some of  
13 these positive coping steps.

14           See you are doing essentially some extended  
15 parenting on the client, because they're being taught to not  
16 engage in negative reactions, the emotional symptoms that  
17 they're having, and you're holding them to a standard.

18           And at the same time you're providing  
19 instruction on how to better work through these instances of  
20 complete meltdown that they experience where basically they  
21 are not able to function for, you know, a 20-minute period  
22 of time because of their emotional distress.

23           We saw a window of that during the court  
24 appearance today, where I think Ms. Pocopanni was having a  
25 lot of trouble regulating her internal state, breathing and

1 things like that, that a therapist could teach her how to  
2 work through some of those emotional symptoms so that you  
3 can get to that more rational, calm, and level-headed state  
4 to make decisions from.

5 Q. Now, the Santa Rosa Counselor, Britany  
6 Pauquette -- I may be mutilating her name, but it's  
7 P-A-U-Q-U-E-T-T-E -- and you had reviewed her records. And  
8 she talks about in her records having Ms. Pocopanni make a  
9 decision chart and then compare her decisions. And she said  
10 at some point that eventually Ms. Pocopanni had the numbers  
11 memorized in future sessions. Can you explain to the Court  
12 what that was that Ms. Pocopanni was doing with Britany?

13 A. Sure. So what you would do is you would  
14 provide an external structure -- like I said, we have to  
15 borrow things from the outside when we've got the  
16 international issues. And so you make a chart or some kind  
17 of table of better coping.

18 And so what you're doing is you're helping the  
19 person begin using outside structure and then internalize  
20 it, make that outside therapy something that is readily  
21 accessible even in a highly emotional state. And that's  
22 what she was beginning to be able to do, is to be able to,  
23 you know, kind of like choose, "If I make this decision or  
24 that one, what's going to have a better outcome for me."

25 So she's calming enough using those strategies

1 to start engaging that rational side of the brain. So it's  
2 good therapy, and that is the goal, is that you want some  
3 progress. You're measuring movement along that coping skill  
4 continuum, and you want to see that the person is  
5 internalizing those skills, that they are at the ready --  
6 she's not dependent on having to have the therapist. At  
7 some point that will become internalized.

8 Q. And did the counselor, Ms. Pauquette -- I  
9 really hate -- I hope I'm not obliterating her name, but did  
10 she in her records recommend that Ms. Pocopanni receive  
11 further treatment with a dialectal behavior therapy to  
12 assist with improved mood regulation and more effective  
13 inner-personal communication?

14 A. Yes. That's the last part of her summary, is  
15 that, you know, as she's making a case consultation, she's  
16 trying to set up a treatment plan about what's going to best  
17 resolve the symptoms. Long-term D.B.T., as they call it, is  
18 really the preferred treatment that's absolutely going to  
19 make a difference.

20 Q. So, if she stays on her medication, and she  
21 continues on as she has been doing even before her arrest  
22 with this therapy, then does she have a chance of  
23 rehabilitation?

24 A. Yes. I think the combined approach is  
25 something that is -- you know, it hasn't really had a lot of

1 time -- she hasn't had a lot of time to engage in it. I  
2 think that's going to give her a very different outcome on  
3 life. If she's able to participate in these two kinds of  
4 treatment in a long-term fashion, I think what she's got  
5 going for her to help support this therapy is that her  
6 family is very supportive of therapy. And often times, when  
7 I meet a defendant in jail, they don't have family or their  
8 family doesn't believe in mental health issues; and so the  
9 support to actually be able to afford the therapy and  
10 continue the therapy is limited.

11                   And so this I think is different, because her  
12 family is very much behind her accessing treatment and  
13 staying in treatment. And that also has a good protective  
14 factor as well.

15                   Q.     And based on your review of the records where  
16 that the various counselors and doctors notated her  
17 responses deeply that she's amenable to treatment and in  
18 fact wants treatment?

19                   A.     Yes. You see over and over that she has been  
20 participating validly in her treatment. She's been, you  
21 know, attending -- the record is not full of no shows and  
22 things like that that you sometimes see in individuals that  
23 are resistant to treatment. She's participating. She's  
24 being open. She's disclosing issues that need to be, you  
25 know, worked on. She's accessing help understanding that

1 it's going to make her have to face things that are  
2 uncomfortable, and she's still there.

3 Q. So based on your experience you believe that  
4 there's a reasonable possibility that she would be able to  
5 overcome her mental disorders with treatment?

6 A. I think it's very important to understand that  
7 she has a chronic mental health --

8 Q. Yeah -- not overcome, I'm sorry.

9 A. -- condition. That's okay.

10 Q. She can't cure it.

11 A. Correct.

12 Q. Right.

13 A. Bipolar disorder is going to be a part of her  
14 life forever, but I think she can go into what we would say  
15 like almost a remission state, as long as she's consistent  
16 in taking her medications. And with the skills from therapy  
17 then some of the behavioral components of the, you know,  
18 that we've heard about -- past behavioral issues that she's  
19 had, you're not going to continue to see those, because  
20 she'll have new coping skills. So that will also reduce in  
21 intensity over time, if she gets the right treatments.

22 Q. And talking about coping skills, after she  
23 started this therapy and received the proper diagnosis and  
24 therefore the proper psychiatric medication, would you say  
25 that the fact that we don't see anymore suicide attempts for

1 a year and-a-half is evidence that those two therapies were  
2 working and that she can be rehabilitated?

3 A. Yes. I would definitely say that the change  
4 in frequency of being baker acted -- just -- detained her to  
5 baker act from 2015 through the present the marked change is  
6 going to change in therapy. She really benefited from the  
7 inpatient stays that she had and, you know, the outpatient  
8 strategy was working.

9 Q. Do you believe that at the time of the  
10 offense -- and this would have been at the time of  
11 February 5<sup>th</sup>, 2017 -- that Ms. Pocopanni suffered from  
12 diminished mental capacity?

13 A. In a sense that her ability to access that  
14 rational planning side was diminished by acute emotional  
15 responses I would agree with that statement.

16 Q. So she was not legally insane, but she was not  
17 capable of the type of judgment that a normal human being  
18 would have at that time?

19 A. Right. In that very severe down period she  
20 was using, you know, the support of unhealthy people. She  
21 was trying to distance herself from her emotional pain  
22 whatever way she could. You know, if she needed to stay  
23 with people that were unhealthy for her, drink alcohol, or  
24 something to just like clear her mind of the emotional pain  
25 that she had.

1                   I don't think that she really had the ability  
2 to access all kinds of other ways and make good decisions  
3 and things that she would be able to do today for instance.

4                   Q.     And I think that's important to -- you know,  
5 when we say emotional pain, we're not talking about the  
6 normal emotional pain that we all experience. This is like  
7 the emotional pain when you're set on fire?

8                   A.     Yes. It's --

9                   Q.     Okay.

10                  A.     -- an acute. I keep returning to that word  
11 because --

12                  Q.     Right.

13                  A.     -- I think that it gives, you know, most of us  
14 the common phrase of acute, it means something, that there  
15 is some severity intensity to that that is not the norm.

16                  Q.     Can you tell me about her -- based on your  
17 review of the records as well as your contact with her and  
18 speaking with her mother -- her emotional maturity level at  
19 the time of February 5<sup>th</sup>, 2017?

20                  A.     Well, in considering that I look back to the  
21 time where she was able to work as a C.N.A., have a car, and  
22 have her own apartment, which I would consider probably her  
23 best functioning for that period of time initially before  
24 her boyfriend moved in. And then I would see how rapidly  
25 that ability eroded, and I would say that that means that

1 she hadn't truly achieved that developmental stage. She was  
2 trying it out. She probably had a lot of support to be able  
3 to even do those steps.

4                   And the fact that she didn't keep it, she  
5 broke down under the abuse of her boyfriend, and she gave up  
6 her job. And when she came back home, you know, in her  
7 emotional -- in the midst of emotional disorders and she  
8 couldn't really reacheive that for quite some time without a  
9 lot of intense intervene.

10                  I think that she hasn't really accomplished  
11 the stage of young adulthood that, you know, you would  
12 expect for someone that age. And that's probably because  
13 she had to work through so much trauma. It's sort of like  
14 running an uphill battle. You know, you're trying to  
15 achieve steps, and we're trying to compare her by her  
16 chronological age. But really emotionally I don't think  
17 that you can do it that way. You have to consider what  
18 she's been through and, you know, what she's had to  
19 overcome. And we would hope that, you know, she's going to  
20 make some progress. And she's going to reach out and be  
21 able to maintain those, you know, achievements again on her  
22 own.

23                  But it's clear that she needed support, so she  
24 hadn't yet achieved her developmentally appropriate steps by  
25 that age.

1           Q.     So at the time of the incident,  
2 February 5<sup>th</sup>, 2017, she was 19 years of age  
3 chronologically. Emotionally she was?

4           A.     That's a difficult question to answer, because  
5 I don't have a specific way to give you a number on that,  
6 but what I can tell you in terms of achievements --  
7 developmental achievements, she couldn't reassure herself.  
8 She couldn't provide her own emotional support. She  
9 couldn't keep an intact sense of who she was when other  
10 people were angry at her. She still needed a lot of help  
11 and concerned parenting from her parents even though she  
12 wasn't living with them. She wasn't making her own doctor's  
13 appointments, she wasn't attending work anymore. You know,  
14 things like that would suggest to me that that's a teenage  
15 level of functioning. That's not quite the young adult  
16 step --

17           Q.     So she has deteriorated at that point below  
18 the age of 19. And did -- and her mental illness, the  
19 bipolar and then the undiagnosed and untreated borderline  
20 personality disorder, did that also play a part in it?

21           A.     Yes.

22           Q.     Okay.

23           MS. CASHWELL: I have no further questions.

24           Thank you.

25           THE COURT: Any questions?

1 MS. CASHWELL: Your Honor, I'd like to --

2 THE COURT: Wait a minute, hold on.

3 MR. GORDON: No questions, Your Honor.

4 THE COURT: Oh, no questions. Okay.

5 MS. CASHWELL: I'm so sorry.

6 THE COURT: That's all right. All right.

7 Ma'am, you may step down.

8 THE WITNESS: Thank you.

9 MS. CASHWELL: I've got her mental health  
10 records, but what I would like to do in the interest of  
11 space is submit a disk of her mental health records,  
12 because I think it will be easier for the Court to keep  
13 that, and then to place it under seal.

14 I thought the disk was included here, but it's  
15 not; so I'll have to like subsequently amend the  
16 record. Is that okay?

17 MR. GORDON: I have no objection.

18 THE COURT: All right.

19 MS. CASHWELL: Okay. The next witness I'd  
20 like to call is Investigator Mistovich.

21 THE COURT: All right. Sir, would you raise  
22 your right hand.

23 (Witness sworn)

24 THE WITNESS: Yes, sir. I do.

25 THE COURT: Thank you. Please have a seat.

1       Please state your name and spell your first and last  
2       names.

3 THE WITNESS: Steven Mistovich, S-T-E-P-H-E-N  
4 M-I-S-T-O-V-I-C-H.

5 WHEREUPON, STEPHEN MISTOVICH,  
6 having been first duly sworn, was examined and testified as  
7 follows:

8 DIRECT EXAMINATION

9 BY MS. CASHWELL:

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

11 A. I'm a detective for Milton Police Department.

12 Q. Okay. And how long have you been a detective  
13 at the Milton Police Department?

14 A. I've been a detective for right at five years.

15 Q. Okay. And how long have you been at the  
16 Milton Police Department?

17 A. Since 1996.

18 Q. When did you first come into contact with  
19 Melissa Pocopanni?

20 A. September the 5<sup>th</sup>, 2017.

21 Q. February?

22 A. February, I'm sorry.

23 Q. That's okay. And on February 5<sup>th</sup>, of 2017,  
24 was that at her parents' house?

25 A. Yes, it was.

1 Q. Okay. Can you tell us about that, that  
2 initial contact that you had with Ms. Pocopanni and her  
3 parents?

4 A. I believe I spoke with her parents first, told  
5 them of the situation, that we needed to speak with her.  
6 Her father had her go with us.

7 Q. Okay. And did her parents tell her anything  
8 before she left?

9 A. Her father told her to tell the truth.

10 Q. When -- you immediately took her to the Milton  
11 Police Department?

12 A. Yes, I did.

13 Q. Did she waive her Miranda rights and answer  
14 your questions?

15 A. Yes, she did.

16 Q. Did she continue to answer your questions  
17 throughout the night?

18 A. Yes, she did.

19 Q. Did she tell you who the three codefendants  
20 were, who the three people were that were in the car?

21 A. She told us first names, and then we figured  
22 it from there.

23 Q. Okay. Did she take you to the residence where  
24 she had seen them?

25 A. Yes, she did.

1 Q. If she had not given you the nicknames, or  
2 names, or taken you to the residence, do you think that you  
3 would have been able to find out who those three  
4 codefendants were?

5 A. Not as quick.

6 Q. Her cooperation with you, did that lead to the  
7 arrest of the three codefendants?

8 A. Yes, it did.

9 Q. You were present for the trial of the three  
10 codefendants?

11 A. Yes, ma'am.

12 Q. And Ms. Pocopanni testified in that trial?

13 A. Yes, she did.

14 Q. Now, at the time that she testified in that  
15 trial were there death threats against Ms. Pocopanni?

16 A. There were threats that were made, yes.

17 Q. And in fact while this case was pending did  
18 you go and warn her family about threats, and they ended up  
19 having to live in a hotel for some time?

20 A. Myself and state attorney Wright had went to  
21 her house at one time. I don't know where they went.

22 Q. Okay. Despite those threats to your knowledge  
23 she did testify in that trial?

24 A. She did testify.

25 Q. Were all three of the codefendants convicted?

1           A.     Yes, they were.

2           Q.     Did she -- that night she cooperated with you.

3     Did she continue to cooperate with you throughout the --

4     even before she got arrested did she continue to make her

5     self available and cooperate?

6           A.     Yes, she did.

7           Q.     Did she always make herself available to you?

8           A.     Yes, she did.

9           Q.     After she was arrested, did she continue to  
10   cooperate?

11          A.     She gave one more statement after that.

12          Q.     When you had your interaction with Ms.

13     Pocopanni, did you observe her to have low self esteem?

14          A.     I interviewed her. I didn't judge her on her  
15   character at that time.

16          Q.     Okay. Did she seem like somebody to you that  
17   was seeking approval?

18          A.     There again, I was out for specific answers to  
19   my questions.

20          Q.     All right. Based on your interaction with  
21   Ms. Pocopanni -- and I talk about your interaction, can you  
22   tell me approximately how many hours you probably spent with  
23   Melissa?

24          A.     I would say somewhere in the neighborhood of  
25   three hours.

1 Q. Total?

2 A. Total.

3 Q. I want to talk about the offense itself.

4 Ms. Pocopanni provided the vehicle that allowed the shooting  
5 to take place. Would that be correct?

6 A. It would be correct.

7 Q. Would it be correct that there was no evidence  
8 of any other active participation by Ms. Pocopanni in the  
9 shooting?

10 A. That would be correct.

11 Q. Would it be correct to say that her  
12 participation in providing the vehicle was unsophisticated?

13 MR. GORDON: I'll object to the leading  
14 question, and it calls for a legal conclusion.

15 THE COURT: Well, inasmuch as this is a  
16 sentencing hearing I'm going to give both sides a lot  
17 of leeway, so overruled.

18 A. I don't know.

19 Q (By Ms. Cashwell) Well, were you present during  
20 her testimony at the codefendants' trial?

21 A. When I was on the stand, yes.

22 Q. No -- not her trial. The trial of the  
23 codefendants.

24 THE COURT: See, the problem is he was a  
25 witness in that case --

1 MS. CASHWELL: Right. I think he was probably  
2 outside.

3 THE COURT: -- he would have been under the  
4 rule.

5 MS. CASHWELL: Right, okay. I have no other  
6 question. Thank you.

7 MR. GORDON: No questions.

8 THE COURT: All right. Thank you, sir. You  
9 may step down.

10 THE WITNESS: Yes, sir.

11 MS. CASHWELL: The next witness that I call is  
12 Sasha Hendricks.

13 THE COURT: All right. Ma'am, would you raise  
14 your right hand.

15 (Witness sworn)

16 THE WITNESS: I do.

17 THE COURT: Thank you. Please have a seat.

18 Please state your name and spell your first and last  
19 names.

20 THE WITNESS: Sasha Hendricks, S-A-S-H-A,  
21 Hendricks, H-E-N-D-R-I-C-K-S.

22 WHEREUPON, SASHA HENDRICKS,  
23 having been first duly sworn, was examined and testified as  
24 follows:

25 DIRECT EXAMINATION

1 BY MS. CASHWELL:

2 Q. Okay. And, ma'am, how old are you, and what  
3 do you do for a living?

4 A. I'm 26 today, and I am a teacher --

5 Q. Happy birthday.

6 A. -- at Santa Rosa County.

7 Q. And what grade do you teach?

8 A. I teach sixth grade and then nine through  
9 twelve.

10 Q. Okay. And how do you know Melissa Pocopanni?

11 A. From church.

12 Q. Have you prepared a statement that you want to  
13 read to the Court?

14 A. I have a letter that I wrote for the judge.

15 Q. Okay. And, if you could, go ahead then.

16 A. Dear Honorable Judge Rimmer, my name is Sasha  
17 Hendricks, and I am a friend of Melissa's.

18 I first met Melissa over a year and-a-half ago  
19 at our young adult fusion group in church. I noticed her  
20 loud and friendly personality, and how she always had a  
21 smile on her face while she made her rounds to hug everyone.

22 One night we were able to have a one-on-one  
23 conversation about similar life experiences in life, and  
24 abuse, and just hanging around the wrong people. But we  
25 always encouraged each other and told each other that no

1 matter our past mistakes that it doesn't determine our  
2 future. Ever since then we just formed a sweet bond.

3 I have been able to spend a lot of time with  
4 her in her home watching movies, doing homework, just  
5 hanging out talking while my kids wrecked her room and ate  
6 all her snacks.

7 Melissa has too formed a special bond and  
8 become a role model to a group of little girls who just  
9 adore her so much. My children along with our pastor's  
10 girls look forward to Wednesdays and Sundays, because they  
11 know they will get to play with her. And they will get new  
12 slime. Melissa makes the prettiest fragrant slime, and that  
13 is the highlight of my daughter's week. Melissa not only  
14 makes the slime but she plays with them, and she knows who  
15 they are inside. We are always the last ones to leave the  
16 sanctuary, because they can't get enough time with her.

17 Melissa is also on our young adult worship  
18 team. And what I love about her is that she worships so  
19 freely and beautiful no matter what she is feeling. She is  
20 the perfect representation of what it means to be a new  
21 creation in Christ. He changes you from the inside out and  
22 I see that in Melissa.

23 I will never forget the fusion worship night  
24 we had and she sang "Set Afire." The whole room exploded  
25 into worship and prayer, as God's powerful presence filled

1 that room. I believe that Melissa's genuine worship through  
2 that song is what allowed us to experience His presence.

3 It could have been so easy for Melissa to stay  
4 at home and make the best out of the time that she had.  
5 Instead she chose to seek a different path to choose grace.  
6 It didn't matter what people were going to say or speculate  
7 about her going to church with a monitor on her foot. She  
8 chose the path of grace and freedom not only our Christ  
9 Jesus offers. She chose to give, to serve, and to just be  
10 there every time the church doors were open.

11 Melissa is a kind and caring friend, who has  
12 proven faithful to me and to others; so I'm here showing  
13 that same love and care that she openly gives to others.

14 MS. CASHWELL: Thank you. I have no further  
15 questions.

16 THE COURT: All right. Ma'am, you may step  
17 down.

18 MS. CASHWELL: I call Stephanie Gains.

19 THE COURT: All right. Ma'am, would you raise  
20 your right hand.

21 (Witness sworn)

22 THE WITNESS: I do.

23 THE COURT: Thank you. Please have a seat.  
24 Please state your name and spell your first and last  
25 names.

1 THE WITNESS: Yes. My name is Stephanie  
2 Gains, S-T-E-P-H-A-N-I-E G-A-I-N-E-S.

3 WHEREUPON, STEPHANIE GAINES,  
4 having been first duly sworn, was examined and testified as  
5 follows:

6 DIRECT EXAMINATION

7 BY MS. CASHWELL:

8 Q. Okay. And, ma'am, how old are you, and what  
9 do you do for a living?

10 A. I'm 33. And I am a housewife stay-at-home  
11 mom. And I serve alongside my husband, as young adult  
12 pastors at our church.

13 Q. And how do you know Melissa Pocopanni?

14 A. She is -- well, is in our young adult  
15 ministry.

16 Q. Okay. And have you -- do you have a statement  
17 that you want to make to the judge?

18 A. Yes, I do. Judge Rimmer, my name is Stephanie  
19 Gains. My husband and I began serving as young adult  
20 pastors at our church on April 1<sup>st</sup>, 2018. This is when we  
21 first met Melissa Pocopanni.

22 It was hard not to notice the tracking device  
23 that she wore on her ankle, but we refrained from asking  
24 about her situation right away in order to get to know her a  
25 little bit and not base our opinion on her on any past

1 decisions. And I'm really glad that we did that. It wasn't  
2 long before Melissa was a big part of our lives.

3 I'm a mom to four little girls. They are aged  
4 between two and eight, and all my daughters had an instant  
5 connection to Ms. Alissa is what they call her. They  
6 affectionally talked about her, and they excitedly waited  
7 every week for her to arrive, so that they could greet her  
8 with squeals and hugs.

9 I noticed that the relationship was quickly  
10 developing, especially between my oldest daughter and  
11 Melissa. So one day I pulled Melissa aside and explained to  
12 her the weight that the situation carried. I told her that  
13 she might see a bunch of little kids, who like to talk about  
14 her, and make homemade slime, and JoJo Siwa, and all the  
15 things that they like to talk about with her, but I saw  
16 something more than that. And it was a ministry opportunity  
17 for Melissa. Those little girls didn't know the decisions  
18 that Melissa had made the year prior. They had never even  
19 noticed that she wore that ankle bracelet. They just loved  
20 that a grown person made them feel important.

21 So I told Melissa that God's plan for her was  
22 bigger than those mistakes she made and that this was the  
23 start of it, that she had a chance to pour into these girls,  
24 and I wanted to see her take advantage of that opportunity.  
25 And she did. She loved my girls, and they loved her. And

1 they miss her so much right now. They often ask me where  
2 Ms. Alissa is, and I've explained as much as is appropriate,  
3 and encouraged my girls to pray for Melissa. And they do  
4 that every single day.

5                   Shortly after we became her pastors in April  
6 Melissa asked us about singing on our worship team. It was  
7 then after approaching our lead pastor about the situation  
8 that we learned some of the details about Melissa's legal  
9 situation.

10                  Our pastor was informative but supportive  
11 telling us that he trusted us to judge whether or not  
12 Melissa's current character traits qualified her to be in a  
13 leadership position as a singer in our group. We agreed  
14 that she was qualified, so she began singing with us.  
15 Melissa's talent was well used to glorify God week after  
16 week, and she was faithful in attendance and a blessing to  
17 the group in that role.

18                  She also became a help to us in preparing for  
19 our services. She always stayed after every service. And  
20 she always offered to lend a hand with whatever we needed,  
21 cleaning up the room, washing out coffee pots, helping us  
22 wrangle our kids around. She helped us get our stuff to our  
23 vehicle in the parking lot, anything that we needed.

24                  In October we had an event for our children in  
25 our church around Halloween. And there was some

1 miscommunication about who was supposed to clean up our  
2 church gym after we used it. So Matt, my husband, and I  
3 found ourselves cleaning up the entire event by ourselves.  
4 But Melissa saw us, and she came back to help us, cleaning  
5 up food, sweeping, wiping tables, once again helping make  
6 sure that our children didn't wander off. It didn't really  
7 matter what we ever asked of Melissa, we could always count  
8 on her.

9                   As the months went by, Melissa began to open  
10 up to me about her current situation, the Court trials, and  
11 the potential conviction, and sentence that she was facing.  
12 We spent much time in prayer over it. She spoke with me  
13 honestly about her role in the events that she's been tried  
14 for. And she told me that while she made some poor choices  
15 that day she was not aware of the plan to hurt anyone, and I  
16 really believe that to be the truth.

17                   Regardless of what happened that day I can  
18 only personally testify in regard to the changes in  
19 Melissa's character and personality in the time that I have  
20 known her. And I feel confident telling you that there have  
21 been changes. Melissa's faith has grown exponentially.  
22 She's become a happier person. She is kind, patient,  
23 helpful.

24                   One of the best examples I have to share which  
25 demonstrates the change that we've witnessed in Melissa is

1 this: On October 25 Melissa called me, and she asked me to  
2 pray about a situation that was unfolding. Police officers  
3 had informed her family that one of the victims of the last  
4 year's incident had disappeared, and they had told someone  
5 that they were going to retaliate against Melissa and may  
6 try to end their own life.

7                   Naturally I was alarmed, and I asked Melissa  
8 if she wanted me to pray for her and her family's safety,  
9 and she told me no, that she was at peace with the  
10 situation. Instead she asked me to pray for the woman who  
11 was looking for her. She explained that the woman had been  
12 through so much as a result of what had happened to her the  
13 year before, and that she didn't have the support system  
14 that Melissa has, and that it broke Melissa's heart to hear  
15 that this woman wanted to end her own life. She told me  
16 that she wanted me to pray that the woman would feel like  
17 her life was worth living again.

18                   I was stunned for a moment upon hearing that,  
19 but I shouldn't have been; because when I thought about it,  
20 the words were in line with the changes that I had seen in  
21 Melissa.

22                   I believe that Melissa understands how her bad  
23 choices landed her here today, and that she is remorseful  
24 over those choices. I also believe that Melissa is not the  
25 same person that she was two years ago. Anyone who knows

1 her now can recognize spiritual fruit growing in her: Love,  
2 joy, kindness, and peace.

3               When I think about Melissa, I'm reminded of a  
4 popular quote by an author, speaker, Lisa Bevere. It says,  
5 "If you think that you've blown God's plan for your life,  
6 rest in this, that you, my friend, are not that powerful."

7               I firmly believe that God has a great plan for  
8 Melissa, one that includes turning her situation into a  
9 platform for giving glory to God and sharing the love of  
10 Jesus with those around her. That plan is not dependent on  
11 her location or her living quarters, but I think she could  
12 do so much more in freedom than she could in confinement. I  
13 pray that I've accurately illustrated the evidence in  
14 Melissa's character change and that you'll take this into  
15 consideration as you contemplate her future.

16               MR. GORDON: Nothing, Your Honor.

17               THE COURT: All right. Ma'am, you may step  
18 down.

19               MS. CASHWELL: Thank you. I call Matt Gains.

20               THE COURT: All right, sir.

21               (Witness sworn)

22               THE WITNESS: I do.

23               THE COURT: Thank you, please have a seat.

24               Please state your name and spell your first and last  
25 names.

THE WITNESS: Matthew Gains, M-A-T-T-H-E-W

G-A-I-N-E-S.

WHEREUPON, MATTHEW GAINES,

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

DIRECT EXAMINATION

BY MS. CASHWELL:

Q. And, sir, what do you do? How old are you and what do you do for a living?

A. I'm 33, and I work at a door company in Pensacola. I have for 11 years, as well as serve as young adult pastor at our church.

Q. And have you known Melissa Pocopanni?

A. She is in our fusion group at the church.

Q. What's a fusion group?

A. It's a young adult ministry dedicated to people from the age of 18 to 30.

Q. And have you prepared a letter that you want to read to the Court?

A. I have.

Q. Do you want to go ahead?

A. Judge Rimmer, I first met Melissa Pocopanni when my wife and I became the young adult pastors at our church early last year. My first interaction with her was when the pastor introduced us to the group, which included

1       Melissa and about ten others of her peers.

2                 During the meeting some people really were not  
3       sure about the transitioning and things taking place, and  
4       things felt tense and a little uneasy. I believe that  
5       Melissa felt the tension and immediately responded. She  
6       started cracking jokes, and she really made us feel right at  
7       home. She quickly accepted us for who we are, for who we  
8       were. She showed genuine love and excitement towards us,  
9       and about us being there. So I felt that I and my family  
10      should do the same for her, and we are very glad that we  
11      did.

12               It was my second interaction with Melissa that  
13       really told me about her character and the type of person  
14       that she was. She asked for prayer one night after the  
15       service, and in spite of all the charges that she was facing  
16       she said that she was positive that God was going to work  
17       everything out some way, somehow. She told me that she  
18       didn't want me to feel sorry or sad for her. She just  
19       wanted me to pray for her and believe God would intervene  
20       for her the way that she believed.

21               Over the last several months Melissa has  
22       become part of our family. She's -- see, most people's kids  
23       are excited to attend church to go see their friends and to  
24       go to their classes, and my kids are no exception.

25               However the highlight of every Wednesday night

1 for my girls was to see Ms. Melissa, to see her, to talk to  
2 her, and discuss everything that had happened to them that  
3 week. She would bring little presents for them, slime for  
4 them, and would love on them as if they were her baby  
5 sisters.

6                   In addition to that she was a huge help to us  
7 with all things in our ministry group. She was there to  
8 help clean after services, prep for the services, and  
9 completely engage within the service.

10                  When she started singing on the worship team  
11 with us, she would sing her parts with a God-given passion  
12 and anointing. She wasn't there for anyone in that moment  
13 except for Jesus. That's why I believe that Melissa is  
14 going to make an incredible evangelist for the kingdom of  
15 God. I believe that her future will -- her future will be  
16 full of opportunities to share Christ -- to share Christ  
17 with people who find themselves in similar situations as  
18 this. It's people like Melissa Pocopanni that are going to  
19 help keep teams and young adults out of jails and prisons  
20 because of the positive influence she will have. I know  
21 Melissa will do everything she can to pursue a future in  
22 ministry.

23                  I'll end with this short story and just note  
24 that this was based on the trial's original date. I will  
25 end with a short story. Melissa's care -- about Melissa's

1 character. Yesterday my wife Stephanie called me at work.  
2 I could tell that she had been crying, and I asked her what  
3 was wrong. She told me that she had received a letter in  
4 the mail from Melissa.

5 Inside was a note that was addressed to our  
6 young adult group expressing how much she missed our  
7 services and the people. Melissa wrote about things that  
8 she -- Melissa wrote about how she was doing and asked us to  
9 continue to pray for her, but there was something else  
10 folded up inside the envelope. It was a recipe for the  
11 perfect homemade slime that Melissa had included for our  
12 daughters.

13 It was hard to wrap our minds around the idea  
14 that someone who would be facing the chance of a life  
15 sentencing in a few days would be worried about getting the  
16 best slime recipe to my kids, but most people would have  
17 been wallowing in a big pool of self pity at that point, but  
18 she was not thinking about that in her final days before  
19 this sentencing. She was thinking about others. She was  
20 thinking about someone other than herself.

21 I don't know many people imprisoned or free,  
22 who practice that kind of self-sacrificial love for others.  
23 Those are the kind of people that society needs. And that's  
24 who Melissa has become since she started living for Jesus.  
25 And that is why my family is proud to stand here today and

1 speak on her behalf, because we believe the person that  
2 Melissa is today and -- I'm sorry -- because we believe in  
3 the person that Melissa is today, and we believe she has a  
4 bright future ahead.

5 MS. CASHWELL: Thank you.

6 MR. GORDON: No questions.

7 THE COURT: All right. Sir, you may step  
8 down.

9 MS. CASHWELL: And, Your Honor, that's my last  
10 witness. And we are ready to proceed to argument.

11 THE COURT: All right. I'll let the State go  
12 first.

13 MR. GORDON: Yes, Your Honor. The Court has  
14 heard a lot of evidence this morning. Allow me to  
15 recall the Court's attention to why we're here. And  
16 we're here because on February the 4th, of 2017,  
17 Melissa Pocopanni acted as a principal to three very  
18 heinous crimes: One, murder of Thomas Buckhalter and  
19 the attempted murder of Ashley Johns and Jermun Nairn.

20 The Court recalls that crime. The Court  
21 recalls the participants in that crime, the plan for  
22 that crime, and the history between the defendant and  
23 the people who are on the wrong side of the barrels  
24 that evening.

25 The Court is aware of the part that Melissa

1                   all the things the other person or persons did, if she  
2                   knew -- she had a conscious intent that the criminal  
3                   act be done and she did some act or said some word  
4                   which was intended to and which did insight, cause,  
5                   encourage, or assist or advise the other person or  
6                   persons to actually commit or attempt to commit the  
7                   crime.

8                   Well, in this case of course both sides agree  
9                   that she provided the car.

10                  Now, there's been some testimony or argument  
11                  at least that she cooperated fully with the police.

12                  Well, her cooperation was in maintaining her own  
13                  innocence and telling the police who actually did the  
14                  shooting and were driving the car.

15                  It's not uncommon for somebody to admit their  
16                  involvement in a crime, when they don't understand the  
17                  legal consequences of that. A lot of people don't know  
18                  what a principal is. A lot of people think that,  
19                  "Well, I was there, but I didn't shoot anybody. I  
20                  didn't hurt anybody, so therefore I can't be guilty of  
21                  anything, so I'll just go ahead and tell the police  
22                  everything they need to know." And they don't  
23                  understand that. They don't understand felony murder.

24                  I've had cases where somebody commits --  
25                  admits to participating in the underlying felony and

1           they think that they're not guilty of the murder,  
2           because they didn't commit the murder. So it's not  
3           unusual for a defendant to not know the legal  
4           consequences of their admissions to the police.

5           I do find that from the evidence in this case  
6           the codefendants were confident that the defendant  
7           would assist them in hitting a lick by letting them use  
8           her car. They knew they could depend on her. They  
9           didn't brag -- I mean, they didn't beg, they didn't  
10           threaten her, she was eager to participate.

11           I remember the testimony was she was at the  
12           beach earlier with two other ladies, and she got a text  
13           message, I guess it was from Davis, about using the  
14           car; and she immediately indicated she wasn't going to  
15           loan her car. But then they made the comment about  
16           this thing that was going to be a lick, and then she  
17           knew that they were going to hit a lick. And then she  
18           was anxious to leave. She told her two friends that  
19           she had to leave, she had to participate in this lick,  
20           and she was going to be mad, if she didn't get to  
21           participate. And she anticipated receiving proceeds  
22           from the crime that her codefendants were going to  
23           commit.

24           So it's important to realize that if there had  
25           been no car, there would have been no crime. And if

1           there had been no crime, there would have been no  
2           murder. And so she loaned them what they actually had  
3           to have in order to carry out the crime. They supplied  
4           the guns but she supplied the car.

5           She never said she was forced to participate.  
6           She never said she was afraid not to loan them her car.  
7           She never said she had been threatened. They could  
8           have even lied to her, if they wanted to, and just said  
9           that they needed to borrow her car to go to Wal-Mart or  
10           something, but they felt confident enough to tell her  
11           what they were going to do, hit a lick; and so she was  
12           willing to participate in that. They didn't have to  
13           lie to her. She only had one stipulation, and that is  
14           that she be present, and she believed that she was  
15           going to share in the proceeds.

16           Now, here's the thing, you know, yeah. She  
17           may not have known they were going to shoot somebody in  
18           a driveby shooting, but she knew that her codefendants  
19           were armed with firearms. She saw the guns. She even  
20           testified -- there's been testimony that she had been  
21           in their presence in the past when they had guns. And  
22           so she goes with them that night in her car and they've  
23           got guns, and they're going to hit a lick. It's  
24           reasonable to infer that she could have known or should  
25           have known that somebody might get killed or seriously