

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

CHRISTIAN KALEN CRAWFORD,
Petitioner,

v.

STATE OF FLORIDA,
Respondent.

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

APPENDIX TO PETITION FOR WRIT OF CERTIORARI

MICHAEL UFFERMAN
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FL Bar No. 114227
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COUNSEL FOR THE PETITIONER

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NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

Opinion filed December 9, 2020.

Appeal from the Circuit Court for
Manatee County; Hunter Carroll, Judge.

Michael Robert Ufferman of Michael Ufferman Law Firm, P.A. Tallahassee, for Appellant.

Ashley Moody, Attorney General,
Tallahassee, and Laurie Marie Benoit-
Knox, Assistant Attorney General,
Tampa, for Appellee.

PER CURIAM.

Affirmed.

NORTHCUTT, BLACK, and SMITH, JJ., Concur.

**IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
SECOND DISTRICT, POST OFFICE BOX 327, LAKELAND, FL 33802-0327**

January 22, 2021

**CASE NO.: 2D17-4419
L.T. No.: 2015-CF-3289**

CHRISTIAN KALEN CRAWFORD

v. STATE OF FLORIDA

Appellant / Petitioner(s),

Appellee / Respondent(s).

BY ORDER OF THE COURT:

Appellant's motion for rehearing is denied.

Appellant's motion for a written opinion is denied.

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

Served:

ATTORNEY GENERAL, TAMPA
MICHAEL ROBERT UFFERMAN, ESQ.
ANGELINA M. COLONNESO, CLERK

LAURIE MARIE BENOIT-KNOX, A.A.G.
CHRISTIAN KALEN CRAWFORD

mep

Mary Elizabeth Kuenzel

Mary Elizabeth Kuenzel
Clerk



Probation Violator
Community Control Violator
Retrial
Resentence

FILED

OCT 13 2017

In the Circuit Court, Twelfth Judicial Circuit,

in and for Manatee County, Florida

Criminal Division

Case Number 412015CF003289CFAXMA

State of Florida v.

CHRISTIAN KALEN CRAWFORD
Defendant

MANATEE COUNTY
CLERK OF CIRCUIT COURT
BY DEPUTY CLERK

Shane Bt

JUDGMENT

The defendant, **CHRISTIAN KALEN CRAWFORD**, being personally before this court represented by **ROBERT HARRISON AND ANN MARIE RIZZO, PRIVATE ATTORNEY** the attorney of record, and the state represented by **GARRETT FRANZEN AND TRAVIS MELLISH**, and having

been tried and found guilty by jury of the following crime(s)
 entered a plea of guilty to the following crime(s)
 entered a plea of nolo contendere to the following crime(s)

Count	Crime	Offense Statute Number(s)	Degree of Crime	OBTS Number
I	DRIVING WHILE UNDER THE INFLUENCE - MANSLAUGHTER	316.193(3)(c)(3)(a)	2F	4132022695
II	DRIVING WHILE UNDER THE INFLUENCE - MANSLAUGHTER	316.193(3)(c)(3)(a)	2F	4132022695
III	DRIVING WHILE UNDER THE INFLUENCE - MANSLAUGHTER	316.193(3)(c)(3)(a)	2F	4132022695
IV	DRIVING UNDER THE INFLUENCE (PROPERTY DAMAGE AND/OR PERSONAL INJURY)	316.193(3)(c)1	1M	4132022695

and no cause being 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 good cause being shown; IT IS ORDERED THAT ADJUDICATION OF GUILT BE WITHHELD.

Being a qualified offender pursuant to s.943.325, the defendant shall be required to submit DNA samples as required by law

DONE AND ORDERED in open court in Manatee County, Florida, on this **13TH DAY OF OCTOBER, 2017**.

H. W. Carroll
CIRCUIT JUDGE HUNTER W CARROLL

Page 1 of 12

State of Florida, v.

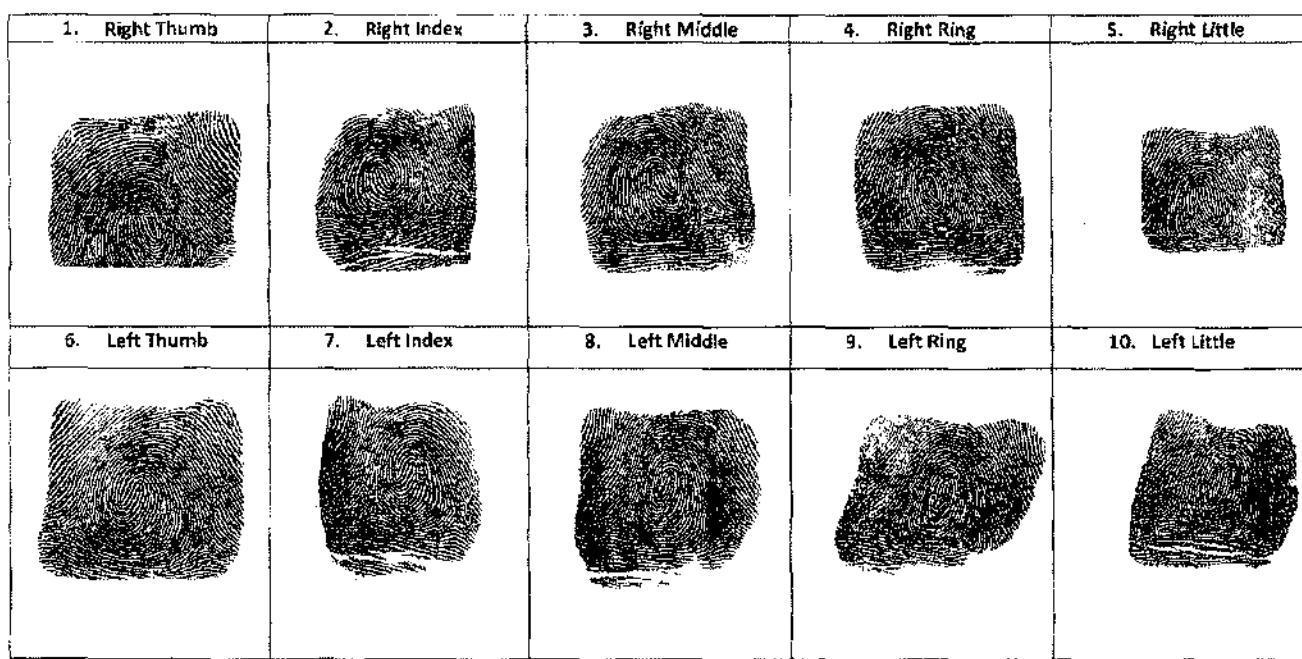
In the Circuit Court, Twelfth Judicial Circuit,
In and for Manatee County, Florida
Criminal Division
CASE NO. 412015CF003289CFAXMA

150F3289

CHRISTIAN KALEN CRAWFORD

Defendant

FINGERPRINTS OF DEFENDANT



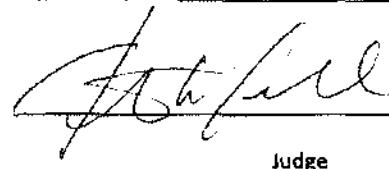
Fingerprints taken by: Name C. HOPKINS Title DEPUTY

I HEREBY CERTIFY that the above and foregoing fingerprints on this judgment are the fingerprints of the
CHRISTIAN KALEN CRAWFORD

Defendant, _____ and that they were placed thereon by
the defendant in my presence in open court this date.

Defendant's Social Security Number 581-64-9704 Gender: Male Race: White

DONE AND ORDERED in open court in Manatee County, Florida, this 13TH day of
OCTOBER, 2017.

 10/17/2017
Judge HUNTER W CARROLL

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Revised 12/21/2016

IN THE CIRCUIT COURT IN AND FOR MANATEE COUNTY, FLORIDA

Division: CRIMINAL	CASE NUMBER: 412015CF003289CFAXMA		
PLAINTIFF: STATE OF FLORIDA,	vs.	DEFENDANT, CHRISTIAN KALEN CRAWFORD DOB: 09/16/1979 ADDRESS: 6403 1st AVE W BRADENTON FL 34207	FILED OCT 30 2017 MANATEE COUNTY CLERK OF COURT BY CLERK DEPUTY CLERK <i>St</i>
		ORDER FOR CHARGES/COSTS/FEES <input checked="" type="checkbox"/> FINAL JUDGMENT FOR FINES AND/OR COSTS	
The defendant is hereby ordered to pay the following sums if assessed:			
Mandatory			
<input checked="" type="checkbox"/> \$ 225.00	Local Government Criminal Justice Trust Fund per 938.05(1), Fla. Stat. (\$225 - Felony; \$60 - MM/CT)		
<input checked="" type="checkbox"/> \$ 50.00	Crimes Compensation Trust Fund per 938.03, Fla. Stat.		
<input checked="" type="checkbox"/> \$ 3.00	Additional Court Cost Clearing Fund per 938.01, Fla. Stat.		
<input checked="" type="checkbox"/> \$ 2.00	Criminal Justice Educ. per 938.15, Fla. Stat.		
<input checked="" type="checkbox"/> \$ 65.00	Additional Court Costs per 939.185(1)(a), Fla. Stat. & Man. Co. Ord. 04-56.		
<input checked="" type="checkbox"/> \$ 50.00	Crime Prevention Fund per 775.083(2), Fla. Stat. (\$50.00-Felony; \$20.00-MM/CT)		
<input checked="" type="checkbox"/> \$ 200.00	Prosecution/Investigative Costs per 938.27, Fla. Stat. Agency: PALMETTO POLICE DEPARTMENT		
<input checked="" type="checkbox"/> \$	A sum of \$ _____ pursuant to section 938.29, Florida Statutes (Public Defender Fees).		
<input checked="" type="checkbox"/> \$	Public Defender Indigency Fee, if not previously collected pursuant to ss27.52 and s.938.29 F.S.		
<input checked="" type="checkbox"/> \$ 12.00	Radio Trust fund pursuant to Florida Statute 318.17.		
<input checked="" type="checkbox"/> \$ 100.00	State Attorney Costs of Prosecution pursuant to F.S. 938.27(8) (\$100.00 Felony; \$50.00 Misd.)		
<input checked="" type="checkbox"/> \$ 3.00	Teen Court Per Fla. Stat. 938.19 And County Ordinance 05-46		
Mandatory if Applicable			
<input checked="" type="checkbox"/> \$ 15.00	Alcohol/Drug Abuse Fund per 938.13, Fla. Stat. & Man. Co. Ord. 98-15		
<input checked="" type="checkbox"/> \$ 120.00	State Court Facilities Fund		
<input checked="" type="checkbox"/> \$ 405.00	Driving Under Influence		
<input checked="" type="checkbox"/> \$ 200.00	Impound Fee		
<input checked="" type="checkbox"/> \$ 20.00	Crime Stoppers Trust Fund per 938.06, Fla. Stat. (Surcharge on any fine).		
<input checked="" type="checkbox"/> \$ 135.00	DUI Cost		
<input checked="" type="checkbox"/> \$	Other Mandatory Fine pursuant to _____, Fla. Stat.		
<input checked="" type="checkbox"/> \$	Crimes Compensation Trust Fund per 938.04, Fla. Stat. (5% surcharge)		
Discretionary			
<input checked="" type="checkbox"/> \$	Fine Pursuant to 775.083 or 775.0835, Fla. Stat.		
<input checked="" type="checkbox"/> \$	Court Ordered Restitution/Other to: _____		
TOTAL 1,605.00			
<input checked="" type="checkbox"/> For which let execution issue. DONE AND ORDERED in open court in Manatee County, Florida, this 10/30/2017			
Page <u>3</u> of <u>12</u>		Judge <u>HUNTER W CARROLL</u>	

Defendant CHRISTIAN KALEN CRAWFORD Case Number 412015CF003289CFAXMA OBTS Number 4132022695

SENTENCE

(As to Count 1)

The defendant, being personally before this court, accompanied by the defendant's attorney of record, ROBERT N HARRISON AND ANN MARIE RIZZO, PRIVATE ATTORNEY 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 10/13/2017 (date) deferred imposition of sentence until this date.

and the Court having previously entered a judgment in this case on _____ (date) now resentence the defendant.

and the Court having placed the defendant on community control and having subsequently revoked the defendant's community control.

balance of monetary obligations to be reduced to judgment.

It is The Sentence Of The Court that:

The defendant pay a fine of \$ _____, pursuant to section 775.083, Florida Statutes, plus \$ _____ as the 5% surcharge required by section 938.04, Florida Statutes.

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

The defendant is hereby committed to the custody of the Sheriff of MANATEE County, Florida.

The defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To Be Imprisoned (Check one; unmarked sections are inapplicable):

For a term of natural life.

For a term of 15 YEARS

Said SENTENCE SUSPENDED for a period of _____ subject to conditions set forth in this order.

If "split" sentence, complete the appropriate paragraph.

Followed by a period of _____ on _____ probation _____ community control under the supervision of the Department of Corrections according to the terms and conditions of supervision set forth in a separate order entered herein.

However, after serving a period of _____ imprisonment in _____, the balance of the sentence shall be suspended and the defendant shall be placed on probation/community control for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation/community control set forth in a separate order entered herein.

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

SPECIAL PROVISIONS(As to Count I)

Age of Defendant _____ The defendant was _____ years of age at the time of the offense.

Relationship to Victim _____ The defendant is not the victim's parent or guardian.

Sexual Activity [F.S. 800.04(4)] _____ The offense _____ did _____ did not involve sexual activity.

Use of Force or Coercion [F.S. 800.04(4)] _____ The sexual activity described herein _____ did _____ did not involve the use of force or coercion.

Use of Force or Coercion/unclothed Genitals [F.S. 800.04(5)] _____ The molestation _____ did _____ did not involve unclothed genitals or genital area.
_____ The molestation _____ did _____ did not involve the use of force or coercion.**Other Provisions:**

Criminal Gang Activity _____ The felony conviction is for an offense that was found, pursuant to section 874.04, Florida Statutes, To have been committed for the purpose of benefiting, promoting, or furthering the interests of a Criminal gang.

Retention of Jurisdiction _____ The court retains jurisdiction over the defendant pursuant to section 947.16(4), Florida Statutes (1983).

Jail Credit It is further ordered that the defendant shall be allowed a total of _____ days as credit for time incarcerated before imposition of this sentence. ****WITH ANY REMAINING CREDIT TIME SERVED FROM COUNT IV****Consecutive/Concurrent As To Other Counts It is further ordered that the sentence imposed for this count shall run (check one) X consecutive to _____ concurrent with the sentence set forth in count IV of this case.

Defendant CHRISTIAN KALEN CRAWFORD Case Number 412015CF003289CFAXMA OBTS Number 4132022695

SENTENCE

(As to Count II)

The defendant, being personally before this court, accompanied by the defendant's attorney of record, ROBERT N HARRISON AND ANN MARIE RIZZO, PRIVATE ATTORNEY 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 10/13/2017 (date) deferred imposition of sentence until this date.

and the Court having previously entered a judgment in this case on _____ (date) now resentence the defendant.

and the Court having placed the defendant on community control and having subsequently revoked the defendant's community control.

balance of monetary obligations to be reduced to judgment.

It Is The Sentence Of The Court that:

The defendant pay a fine of \$ _____, pursuant to section 775.083, Florida Statutes, plus \$ _____ as the 5% surcharge required by section 938.04, Florida Statutes.

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

The defendant is hereby committed to the custody of the Sheriff of MANATEE County, Florida.

The defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To Be Imprisoned (Check one; unmarked sections are inapplicable):

For a term of natural life.

For a term of 15 YEARS

Said SENTENCE SUSPENDED for a period of _____ subject to conditions set forth in this order.

If "split" sentence, complete the appropriate paragraph.

Followed by a period of _____ on _____ probation _____ community control under the supervision of the Department of Corrections according to the terms and conditions of supervision set forth in a separate order entered herein.

However, after serving a period of _____ imprisonment in _____, the balance of the sentence shall be suspended and the defendant shall be placed on probation/community control for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation/community control set forth in a separate order entered herein.

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

SPECIAL PROVISIONS(As to Count 11)**Age of Defendant** The defendant was years of age at the time of the offense.**Relationship to Victim** The defendant is not the victim's parent or guardian.**Sexual Activity [F.S. 800.04(4)]** The offense did did not involve sexual activity.**Use of Force or Coercion [F.S. 800.04(4)]** The sexual activity described herein did did not involve the use of force or coercion.**Use of Force or Coercion/unclothed Genitals [F.S. 800.04(5)]** The molestation did did not involve unclothed genitals or genital area.
 The molestation did did not involve the use of force or coercion.**Other Provisions:****Criminal Gang Activity** The felony conviction is for an offense that was found, pursuant to section 874.04, Florida Statutes, To have been committed for the purpose of benefiting, promoting, or furthering the interests of a Criminal gang.**Retention of Jurisdiction** The court retains jurisdiction over the defendant pursuant to section 947.16(4), Florida Statutes (1983).**Jail Credit** X It is further ordered that the defendant shall be allowed a total of NO days as credit for time incarcerated before imposition of this sentence.**Consecutive/Concurrent As To Other Counts** X It is further ordered that the sentence imposed for this count shall run (check one) X consecutive to concurrent with the sentence set forth in count 1 of this case.Page 7 of 12

Defendant CHRISTIAN KALEN CRAWFORD Case Number 412015CF003289CFAXMA DBTS Number 4132022695

SENTENCE

(As to Count III)

The defendant, being personally before this court, accompanied by the defendant's attorney of record, ROBERT N HARRISON AND ANN MARIE RIZZO, PRIVATE ATTORNEY 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 10/13/2017 (date) deferred imposition of sentence until this date.

and the Court having previously entered a judgment in this case on _____ (date) now resentence the defendant.

and the Court having placed the defendant on community control and having subsequently revoked the defendant's community control.

balance of monetary obligations to be reduced to judgment.

It Is The Sentence Of The Court that:

The defendant pay a fine of \$ _____, pursuant to section 775.083, Florida Statutes, plus \$ _____ as the 5% surcharge required by section 938.04, Florida Statutes.

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

The defendant is hereby committed to the custody of the Sheriff of MANATEE County, Florida.

The defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To Be Imprisoned (Check one; unmarked sections are inapplicable):

For a term of natural life.

For a term of 15 YEARS

Said SENTENCE SUSPENDED for a period of _____ subject to conditions set forth in this order.

If "split" sentence, complete the appropriate paragraph.

Followed by a period of _____ on _____ probation _____ community control under the supervision of the Department of Corrections according to the terms and conditions of supervision set forth in a separate order entered herein.

However, after serving a period of _____ imprisonment in _____, the balance of the sentence shall be suspended and the defendant shall be placed on probation/community control for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation/community control set forth in a separate order entered herein.

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

SPECIAL PROVISIONS(As to Count III)

Age of Defendant _____ The defendant was _____ years of age at the time of the offense.

Relationship to Victim _____ The defendant is not the victim's parent or guardian.

Sexual Activity [F.S. 800.04(4)] _____ The offense _____ did _____ did not involve sexual activity.

Use of Force or Coercion [F.S. 800.04(4)] _____ The sexual activity described herein _____ did _____ did not involve the use of force or coercion.

Use of Force or Coercion/unclothed Genitals [F.S. 800.04(5)] _____ The molestation _____ did _____ did not involve unclothed genitals or genital area.
_____ The molestation _____ did _____ did not involve the use of force or coercion.

Other Provisions:

Criminal Gang Activity _____ The felony conviction is for an offense that was found, pursuant to section 874.04, Florida Statutes, To have been committed for the purpose of benefiting, promoting, or furthering the interests of a Criminal gang.

Retention of Jurisdiction _____ The court retains jurisdiction over the defendant pursuant to section 947.16(4), Florida Statutes (1983).

Jail Credit It is further ordered that the defendant shall be allowed a total of NO days as credit for time incarcerated before imposition of this sentence.

Consecutive/Concurrent As To Other Counts It is further ordered that the sentence imposed for this count shall run (check one) X consecutive to _____ concurrent with the sentence set forth in count II of this case.

Defendant CHRISTIAN KALEN CRAWFORD Case Number 412015CF003289CFAXMA OBTs Number 4132022695

SENTENCE

(As to Count IV)

The defendant, being personally before this court, accompanied by the defendant's attorney of record, ROBERT N HARRISON AND ANN MARIE RIZZO, PRIVATE ATTORNEY 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 10/13/2017 deferred imposition of sentence until this date.
(date)

and the Court having previously entered a judgment in this case on _____ now resentence the defendant.
(date)

and the Court having placed the defendant on community control and having subsequently revoked the defendant's community control.

balance of monetary obligations to be reduced to judgment.

It Is The Sentence Of The Court that:

The defendant pay a fine of \$ _____, pursuant to section 775.083, Florida Statutes, plus \$ _____ as the 5% surcharge required by section 938.04, Florida Statutes.

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

The defendant is hereby committed to the custody of the Sheriff of MANATEE County, Florida.

The defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To Be Imprisoned (Check one; unmarked sections are inapplicable):

For a term of natural life.

For a term of 364 DAYS

Said SENTENCE SUSPENDED for a period of _____ subject to conditions set forth in this order.

If "split" sentence, complete the appropriate paragraph.

Followed by a period of _____ on _____ probation _____ community control under the supervision of the Department of Corrections according to the terms and conditions of supervision set forth in a separate order entered herein.

However, after serving a period of _____ imprisonment in _____, the balance of the sentence shall be suspended and the defendant shall be placed on probation/community control for a period of _____ under supervision of the Department of Corrections according to the terms and conditions of probation/community control set forth in a separate order entered herein.

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

SPECIAL PROVISIONS(As to Count IV)

Age of Defendant _____ The defendant was _____ years of age at the time of the offense.

Relationship to Victim _____ The defendant is not the victim's parent or guardian.

Sexual Activity [F.S. 800.04(4)] _____ The offense _____ did _____ did not involve sexual activity.

Use of Force or Coercion [F.S. 800.04(4)] _____ The sexual activity described herein _____ did _____ did not involve the use of force or coercion.

Use of Force or Coercion/unclothed Genitals [F.S. 800.04(5)] _____ The molestation _____ did _____ did not involve unclothed genitals or genital area.
_____ The molestation _____ did _____ did not involve the use of force or coercion.

Other Provisions:

Criminal Gang Activity _____ The felony conviction is for an offense that was found, pursuant to section 874.04, Florida Statutes, To have been committed for the purpose of benefiting, promoting, or furthering the interests of a Criminal gang.

Retention of Jurisdiction _____ The court retains jurisdiction over the defendant pursuant to section 947.16(4), Florida Statutes (1963).

Jail Credit X It is further ordered that the defendant shall be allowed a total of 404 days as credit for time incarcerated before imposition of this sentence.

Consecutive/Concurrent As To Other Counts _____ It is further ordered that the sentence imposed for this count shall run (check one) _____ consecutive to _____ concurrent with the sentence set forth in count _____ of this case.

Defendant **CHRISTIAN KALEN CRAWFORD**

Case Number **412015CF003289CFAXMA**

Consecutive/Concurrent It is further ordered that the composite term of all sentences imposed for
As To Other Convictions the counts specified in this order shall run

(check one) consecutive to concurrent with the following:
 any active sentence being served.
 specific sentences:

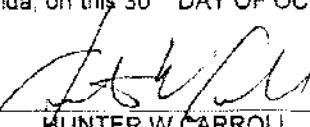
In the event the above sentence is to the Department of Corrections, the Sheriff of Manatee County, Florida, is hereby ordered and directed to deliver the defendant to the Department of Corrections at the facility designated by the department together with a copy of this judgment and sentence and any other documents specified by Florida Statute.

The defendant in open court was advised of the right to appeal from this sentence by filing notice of appeal within 30 days from this date with the clerk of this court and the defendant's right to the assistance of counsel in taking the appeal at the expense of the State on showing of indigency.

In imposing the above sentence, the court further orders:

DONE AND ORDERED in open court at Manatee County, Florida, on this 30TH DAY OF OCTOBER, 2017.

Judge


HUNTER W CARROLL

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IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY, FLORIDA

STATE OF FLORIDA, :
: ;
Plaintiff, :
: ;
vs. : CASE NO. 2015 CF 003289
: ;
CHRISTIAN KALEN CRAWFORD, :
: ;
Defendant. :
_____ /

MOTION TO SUPPRESS
(Blood Sample)

COMES NOW, Christian Kalen Crawford, Defendant, by and through his undersigned attorney, and files this Motion to Suppress Evidence, in support of said Motion would show:

1. The Defendant was involved in a traffic crash on April 1, 2015.
2. Following the crash the Defendant was handcuffed and placed in the rear of a marked Palmetto Police Department Car and detained for an extended period of time.
3. There was no lawful basis to arrest/detain the Defendant; there was neither probable cause to arrest the Defendant for a crime, nor was there reasonable suspicion that the Defendant had committed a crime.
4. In order for the detention to be a lawful *Terry* detention, the officers could only detain the Defendant "for the purposes of ascertaining the identity of the

ROBERT N. HARRISON, P.A.
304 WEST VENICE AVENUE, SUITE 201, VENICE, FLORIDA 34285 • TEL 941-485-6551 • FAX 941-488-8932

E-Filed with MCCC - 2015CF003289AX- 6/22/2016 9:15 AM - PG 1 of 3
A-17

person temporarily detained and the circumstances surrounding the person's presence abroad which led the officer to believe that the person had committed, was committing, or was about to commit a criminal offense" and said detention could not last longer than was reasonably necessary to effect these purposes. Section 901.151, Florida Statutes.

5. Neither the purpose nor the duration of the detention fell within the lawful scope of Section 901.151, Florida Statutes.

6. Furthermore, there was no lawful basis to keep the Defendant handcuffed.

7. After being detained unlawfully for an extended period of time, a blood sample was seized from the Defendant.

8. The blood sample was a seizure within the meaning of the Fourth Amendment to the United States Constitution.

9. There was no search warrant for the blood sample, law enforcement did not have a lawful basis to obtain a search warrant for the blood sample, nor was there any lawful exception to the search warrant requirement.

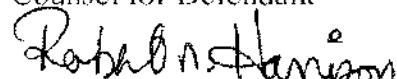
10. Law enforcement purportedly relied upon consent to obtain the blood sample, but any consent for the blood sample was not voluntary and was the fruit of the unlawful detention/arrest of the Defendant.

WHEREFORE, the Defendant requests this Honorable Court for an order suppressing any and all evidence obtained as the result of the seizure of the blood sample, including all laboratory analysis of the blood sample.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been furnished by electronic mail to Jessica Vitale at sao.rounds@mymanatee.org this 22nd day of June, 2016.

Robert N. Harrison, P.A.
304 West Venice Avenue, Suite 201
Venice, FL 34285
(941) 485-8551
(941) 584-8376 Facsimile
Robert@HarrisonLawOffice.com
Counsel for Defendant



Robert N. Harrison
Florida Bar No. 0612545

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY, FLORIDA

STATE OF FLORIDA,

Plaintiff,

Case No.: 2015-CF-003289-AX

v.

CHRISTIAN KALEN CRAWFORD

Defendant.

FILED FOR RECORD
2016 OCT 13 AM 11:20
CLERK OF CIRCUIT COURT
MANATEE CO FLORIDA

**ORDER DENYING DEFENDANT'S MOTION FOR DISCHARGE
AND
MOTION TO SUPPRESS BLOOD DRAW**

BEFORE THE COURT are the following motions filed by the Defendant:

(1) Motion for Discharge, filed June 24, 2016; (2) Motion to Suppress (Blood Sample), filed June 22, 2016; (3) Motion to Suppress (Manatee County EMS), filed June 24, 2016; and (4) Motion to Suppress (Statements), filed on June 29, 2016. On September 23, 2016, the Court conducted a half-day evidentiary hearing.

At the conclusion of the hearing, the Court orally denied the Motion to Suppress (Manatee County EMS) without prejudice. For the same reasons articulated in open Court for the EMS motion, the Court now denies without prejudice the Statements motion. This Order addresses the Motion for Discharge and Motion to Suppress (Blood Sample). Both of those motions are denied.

Unless specifically identified to a different standard, the Court finds the following facts (from the evidentiary hearing) to the preponderance of evidence standard:

1. On October 14, 2015, the State executed and filed with the Clerk an Information charging Defendant Christian Kalen Crawford with three counts of DUI Manslaughter for the deaths of Ivan Carlos, Brenda Aviles Pena, and the unborn child of Brenda Aviles Pena, and one count of DUI with property damage or personal injury. The Information alleged that the crash causing the deaths and damage occurred on April 1, 2015. Notably, the State filed the Information 197 days after the crash.

2. At or about 2:34 a.m. on April 1, 2015, a report of a traffic crash at the Lone Oak mobile home park was made to the Palmetto Police Department (“PPD”). PPD dispatch initially dispatched then Officer Kristopher Rossman and two other PPD officers to the scene of a vehicle versus stationary mobile trailer, with possible injuries and entrapment. Officer Rossman had only been a sworn law enforcement officer for 2-3 years.

3. Officer Rossman was first on scene at the location of the crash. He observed ten to fifteen individuals outside. It was very dark, with only a few street lamps for light. There were no law enforcement or emergency personnel in the crowd. There was screaming and crying on scene - it was tense. Officer Rossman

observed a Chevy Trailblazer by a tree and trailer, and his initial observation was that the Trailblazer caused the wreckage.

4. Without objection, the State introduced into evidence Officer Rossman's dash camera recording from that evening. While his vehicle was not pointing towards the wreckage—and therefore the wreckage and cluster of individuals were not observable—the camera did pick up activity from the scene as well as sounds from within his vehicle and his body microphone.¹

5. Upon exiting his vehicle, Officer Rossman saw an individual—the Defendant—kneeling or standing. Several individuals surrounded the Defendant. At approximately this same time, a radio transmission is heard providing that “the driver of the vehicle is being held down behind the trailer.”² Unidentified individuals on scene told Officer Rossman that the Defendant was “trying to run.”³

¹ The dash cam video displays the time in a blinking fashion. The time on the display is approximately 13 minutes slow. For instance, Defendant's Exhibit B provide that PPD dispatched Officer Rossman at 2:36 a.m., while State's Exhibit 1 displays 2:22:40 a.m. (0:00 of recording) when Officer Rossman turned on his dash cam upon his dispatch.

² State's Exhibit 1, 2:26:08 a.m. (3:31 of the recording).

³ The Court overruled Defendant's multiple hearsay objections as to the statements heard about the Defendant from the crowd. The Court overruled those hearsay objections, finding that the statements were not offered to prove the matter asserted—that Defendant did attempt to flee—but instead for the officer's state of mind and affect these statements had on the officer. Exhibit 1 picks up numerous instances made by individuals on scene indicating that Defendant attempted to flee prior to law enforcement's arrival.

Officer Rossman did not handcuff Defendant or otherwise pat him down. Instead, Officer Rossman went to the crashed vehicle to investigate.

6. Sixteen-year PPD veteran, then Corporal Michael Kelly, arrived seconds after Officer Rossman arrived. As he exited his vehicle, he saw an individual attempting to get his attention. Corporal Kelly described this individual as an older Hispanic male who spoke in broken English. That individual excitedly directed Corporal Kelly to the Defendant, whom Corporal Kelly understood from the older gentlemen to be the presumed driver. Surrounding the Defendant was an adult couple and another male. Corporal Kelly is seen on Officer Rossman's dash camera running after he gets out of his vehicle upon his arrival.⁴

7. Understanding that the Defendant to be the presumed driver, Corporal Kelly placed handcuffs on the Defendant and attempted to walk him to Corporal Kelly's vehicle. They did not make it, as Defendant appeared injured and Officer Rossman was attempting to get Corporal Kelly's attention. At that point, Corporal Kelly asked one of the individuals next to the Defendant to "watch" the Defendant. Corporal Kelly does not recall whether he patted the Defendant down for weapons.

8. Corporal Kelly immediately joined Officer Rossman at the crashed vehicle. They attempted to render life-saving aid to the victims.

⁴ State's Exhibit 1, 2:25:53 a.m. (3:17 of the recording).

9. Moments after arriving on the scene, a radio broadcast informs the responding officers that there are three people injured, one person unconscious, one pregnant, plus two elderly individuals trapped on a lot.⁵ On scene at the time were Officer Rossman, Corporal Kelly, and Sergeant Martinez. These three PPD officers will be the only PPD officers on scene for nearly an hour.

10. Approximately seven minutes after PPD dispatched officers to the scene, an ambulance arrives.⁶

11. Three minutes later, an unidentified voice reports that a vehicle went into a trailer, that there was a "possible Signal 7, times two, one pregnant female," and that EMS had just arrived.⁷ The parties stipulated that Signal 7 means dead body.

12. Two minutes later, radio traffic indicated that there were two confirmed DOAs, and PPD was looking for others who may have been entrapped by the wreckage. Confirmation was also radioed that one of the DOAs was the pregnant female.⁸ All three victims (including the unborn child), died on scene.

⁵ State's Exhibit 1, 2:27:56 a.m. (5:19 of the recording).

⁶ State's Exhibit 1, 2:29:47 a.m. (7:10 of the recording).

⁷ State's Exhibit 1, 2:32:50 a.m. (10:12 of the recording).

⁸ State's Exhibit 1, 2:34:41 a.m. (12:03 of the recording) through 2:35:42 a.m. (13:04 of the recording).

13. Approximately fifteen minutes after PPD was dispatched to the scene, Sergeant Martinez placed the Defendant, still handcuffed, into Officer Rossman's vehicle.⁹

14. Sergeant Martinez and Officer Rossman then spoke concerning the next steps that PPD would take. Sergeant Kelly instructed Officer Rossman to proceed with the crash investigation, knowing that they already had a witness placing Defendant at the wheel. He instructed Officer Rossman to "hold off" on "the Miranda thing, change of hats," discussing the difference between the crash investigation and the criminal investigation. Continuing, Sergeant Martinez said: "We already have him dead to rights anyway, so he ain't going nowhere." He referenced DUI and then explained to Officer Rossman that several of the witnesses were getting antsy and wanting to leave. Sergeant Martinez again told Officer Rossman to hold off on Miranda and advised Officer Rossman that CID was coming for a search warrant.¹⁰

15. The Court credits Officer Rossman's testimony that Sergeant Martinez's "dead to rights" statement referred to placing the Defendant as the driver of the vehicle involved in the crash and not for DUI.

⁹ State's Exhibit 1, 2:38:30 a.m. (14:51 of the recording).

¹⁰ State's Exhibit 1, 2:37:49 a.m. (15:11 of the recording) through 2:39:30 a.m. (16:52 of the recording).

16. Approximately twenty-three minutes after being dispatched, Officer Rossman speaks with an unidentified person, who the Court believes is Corporal Kelly. Officer Rossman recounts what is known at this time. Of note, Officer Rossman indicates that: PPD had *not* determined what had happened; the Defendant said that someone tried to run him off the road; two individuals were in bed (one being a pregnant female); they were dead on arrival, although PPD attempted CPR until EMS arrived; wheel witnesses said that Defendant tried to get away; and some of the neighbors caught the Defendant. An unidentified speaker then asked if there were "any sign of Signal 1," which the parties stipulated meant DUI. Officer Rossman replied in the negative. There was another brief discussion of obtaining a search warrant.¹¹

17. Several seconds after this discussion is concluded, Officer Rossman and the Defendant spoke. Without any questions being asked of him, the Defendant asked if he was going to jail. Officer Rossman replied not at the time, as PPD was investigating the crash and needed to determine what happened. The Defendant volunteered that he was not intoxicated but rather he was run off the road. Officer Rossman obtained Defendant's driver's license.¹²

¹¹ State's Exhibit 1, 2:45:36 a.m. (22:58 of the recording) through 2:46:52 a.m. (24:14 of the recording).

¹² State's Exhibit 1, 2:47:00 a.m. (24:22 of the recording) through 2:47:45 a.m. (25:07 of the recording).

18. Approximately twenty-eight minutes after being dispatched, EMS informed Officer Rossman that the Defendant's knee is somewhat deformed, that he would need stiches, and he could be transported to the hospital by EMS, but that Defendant was stable enough for PPD to transport him to the hospital. PPD initially elected to have EMS transport the Defendant to the hospital, and PPD would send an officer with the EMS because, in the words of Officer Rossman, "for all intents and purposes he is in custody right now." A few seconds later, either Sergeant Martinez or Corporal Kelly asked Officer Rossman if he saw any sign of "Signal 1, to which Officer Rossman again replied no. As the discussion ensued, the PPD officers determined that they would ask the Defendant if he would consent to a blood draw, to be taken by EMS on scene.¹³

19. Corporal Kelly went to the trunk of his vehicle to obtain the agency issued blood draw kit. It had expired in 2010, five years prior to the crash.

20. Approximately thirty-three minutes after being dispatched, Officer Rossman again engaged the Defendant in conversation. Before Officer Rossman asked any substantive questions, Defendant offered to have his blood drawn, to which Officer Rossman responded: "You consent to a blood draw and all that?" There is no evidence PPD pressured, threatened, or intimidated the Defendant.

¹³ State's Exhibit 1, 2:50:32 a.m. (27:53 of the recording) through 2:53:40 a.m. (31:01 of the recording).

There was no discussion, however, of Defendant's rights or any option that the Defendant could refuse the blood draw. A few moments later, the Defendant again asked Officer Rossman if he were going to jail, to which Officer Rossman replied that they were still investigating and for now he was only being detained. Officer Rossman loosened but did not remove the handcuffs on the Defendant.¹⁴

21. After leaving Mr. Crawford, Officer Rossman had a brief discussion with Sergeant Martinez. Officer Rossman advised that he had obtained Defendant's consent for the blood draw, that EMS would do the blood draw, but that the blood draw kit available had expired five years prior. Sergeant Martinez explained that someone would have to return to the PPD station to obtain a fresh blood draw kit. Once the blood drawn was completed, Sergeant Martinez directed that the Defendant be taken to the hospital. Sergeant Martinez advised Officer Rossman that Sergeant Martinez had spoken to the PPD chief of police, who wanted someone with more experience to be the lead at the crash scene as this was Officer Rossman's first.¹⁵

¹⁴ State's Exhibit 1, 2:55:45 a.m. (33:06 of the recording) through 2:57:25 a.m. (34:46 of the recording).

¹⁵ State's Exhibit 1, 2:58:02 a.m. (35:23 of the recording) through 2:59:14 (36:35 of the recording).

22. The scene remained tense as PPD interviewed individuals in the crowd. Emotions ran high. It was dark, chaotic, and confusing. The civilians were approaching the officers all the time providing information.

23. While waiting for the blood draw kit to arrive, the PPD officers continued with the crash investigation by interviewing numerous individuals. During these interviews, Officer Rossman radioed Corporal Kelly to ensure that Corporal Kelly obtained the information of one of the individuals that was watching the Defendant upon PPD's arrival on scene.¹⁶ In this radio transmission, Officer Rossman stated: "302, 315. The black male that was holding down the 10-15, did you get his 43. 10-4. What about the other males, I believe there were two of them holding him down. 10-4."¹⁷

24. There was a dispute in the testimony as to the exact meaning of 10-15. Officer Rossman testified that he understood 10-15 to mean both a person detained as well as a person in custody, as there is no separate 10 code for detention. Other witnesses testified that 10-15 is not used, or should not be used, to denote

¹⁶ State's Exhibit 1, 3:17:03 a.m. (54:23 of the recording); Defense Exhibit A, file "CD."

¹⁷ The parties stipulated that "302" is Corporal Kelly and "315" is Officer Rossman. Per Defense Exhibit C, the Ten Codes, "10-15" is "prisoner in custody," "10-4" is "acknowledgment," and "10-43" is "any traffic/information for ____."

detention, including a PPD dispatcher who testified that detention is "10-12." The Ten Codes, however, denotes "10-12" as "visitors/officials present."

25. Regardless of what the PPD policy is on the Ten Code, the Court credits Officer Rossman's testimony as to his understanding of the meaning of 10-15, as he was the one using it. Officer Rossman in this exchange meant that the Defendant was being detained and not that he was in custody. This is also consistent with Officer Rossman's statement moments before to the Defendant that he was only being detained.

26. Approximately 56 minutes after dispatch, a new blood draw kit arrives on scene. This is also about the time that the PPD Chief of Police and Corporal Christopher Metzger arrived on scene.

27. Officer Rossman removed the Defendant from the back of the patrol car at this time and walks him over to the ambulance for the blood draw. The Defendant remained handcuffed until Officer Rossman requested that Defendant sign the consent form associated with the blood draw. The consent form does not reference any rights that Defendant has. No PPD officer at this point had either advised Defendant of any Miranda rights or that he could refuse the blood draw.¹⁸

¹⁸ State's Exhibit 1, 3:20:24 a.m. (57:43 of the recording); State's Exhibit 2.

28. EMS perform the blood draw. Defendant freely and voluntarily consented to the blood draw.¹⁹

29. After the blood draw, Officer Rossman spoke with several PPD officers, including the Chief of Police and Sergeant Martinez. Importantly, Officer Rossman continued to maintain that he did not see any signs of "Signal 1" [DUI]. He also confirmed that the Defendant was not under arrest. The more experienced officers on scene discussed that if they were to arrest him on any charge, including a potential fleeing charge that would start the running of the speedy trial period. The group also discussed that there was insufficient evidence to suspect the Defendant of driving under the influence. The more senior officers reminded Officer Rossman that when he spoke with the Defendant at the hospital to ensure that there was a clear "change of hats" when moving into the criminal investigation. Given the absence of impairment evidence, the group advised Officer Rossman, if the Defendant refused to speak to him after the commencement of the criminal investigation, then "we're done" and could not

¹⁹ The Court specifically notes that the State demonstrated Defendant's consent to the preponderance of the evidence standard. Perhaps as important to note in this case, though, the Court finds that the State failed to establish Defendant's consent to the blood draw by clear and convincing evidence. Accordingly, if the Court is in error by concluding that Defendant's detention was legal and instead should have determined that his detention was illegal, the State's failure to establish consent by clear and convincing evidence would require the blood draw to be suppressed.

bring the Defendant to the station. The more senior officers determined that, to ensure that Officer Rossman's time would not be wasted, he would stay at the scene and continue with his duties there. PPD instead would send PPD Officer Uruchima to the hospital to wait until Defendant finished with his treatment, at which point Officer Uruchima would contact Officer Rossman to come to the hospital. Officer Uruchima had not been actively involved in the investigation besides some traffic control at the entrance to the mobile home park. Officer Uruchima is another young PPD officer.²⁰

30. Soon after this meeting, the ambulance departed for the hospital with Defendant.

31. Sergeant Martinez radioed Officer Uruchima to go to Manatee Memorial hospital. Sergeant Martinez's communication advised Officer Uruchima that the Defendant "is not 10-15 at this time" and "we need a statement from him" as to whether he was the driver.²¹

32. While at the hospital, Officer Uruchima stationed himself outside Defendant's hospital room. Officer Uruchima stated that his purpose was to ensure that Defendant did not leave.

²⁰ State's Exhibit 1, 3:38:57 a.m. (1:16:16 of the recording) through 3:44:27 a.m. (1:21:46 of the recording).

²¹ Defense Exhibit A, file "DD."

33. Officer Rossman went to Manatee Memorial Hospital a little after 7 a.m. that morning. Officer Rossman did not speak with Defendant at that time, but he does not recall why he could not speak with Defendant. Counsel for Defendant advised that after Defendant arrived at the hospital, he ultimately needed emergency surgery that morning. Officer Rossman ultimately spoke with Defendant several days later at Defendant's home.

34. Officer Uruchiima remained at the hospital continuously until at least 8 a.m. that morning.

35. At no time during the night of the crash did any law enforcement officer formally place Defendant under arrest.

36. At all times after law enforcement's arrival on scene, Defendant cooperated with law enforcement. Law enforcement never saw Defendant attempt to flee the scene or otherwise resist law enforcement.

37. PPD never saw Defendant with any weapons. There is no evidence that any PPD officer patted Defendant down for purposes of officer safety.

38. At all times while Defendant was on scene at the mobile home park, the PPD officers operated efficiently, diligently, and professionally, especially considering the limited number of resources available the first hour, the size of the crowd, the atmosphere, and the magnitude of the injuries and fatalities. Even the

slight delay in locating a fresh blood draw kit does not remotely undermine the Court's confidence in this factual finding.

39. The evidence demonstrates that, besides the request for the blood draw, PPD had no substantive discussion with the Defendant while on scene.

Motion for Discharge

Defendant first moves to discharge the charges against him, contending that the speedy trial limit under Florida Rule of Criminal Procedure 3.191 has expired. Defendant develops his contention on the assumption that the detention he experienced on April 1, 2015 exceeded both the scope and duration necessary, and as such, the detention was equivalent to a *de facto* arrest. The State concedes that if the Court were to conclude that Defendant was, in fact, *de facto* arrested that night, then Defendant's motion must be granted. The State, however, contends that the detention under the facts of this case did not rise to the level of a *de facto* arrest. The Court agrees with the State.

The Second District provides that a formal arrest "is not always necessary to start the running of the speedy trial time." State v. Devard, 178 So. 3d 41, 43 (Fla. 2d DCA 2015) (internal citation omitted). Continuing, the Second District explains that "something more than an investigatory detention is required." Id. "[T]here is no such thing as an 'unarrest.'" Id.

Defendant cites to Cocke v. State, 889 So. 2d 132 (Fla. 4th DCA 2004), suggesting that a thirty to forty-five minute detention in handcuffs in the back of a police vehicle becomes a *de facto* arrest. That case, however, was not a speedy trial case, and the facts in Cocke demonstrate it is entirely factually dissimilar. Defendant also cites Baggett v. State, 849 So. 2d 1154 (Fla. 2d DCA 2003), to advance his “longer than necessary” detention argument. Again, the facts of Baggett are totally different and in no way analogous to the facts here.

In opposition, the State points to Saturnino-Boudet v. State, 682 So. 2d 188 (Fla. 3d DCA 1996), and State v. Merklein, 388 So. 2d 218 (Fla. 2d DCA 1980), for the proposition that the length of the detention is only one factor, and the Court must evaluate the totality of the facts to make an individualized determination. Those cases collected cases explaining various detention lengths had been found to be constitutionally valid.

Under the facts of this case, the Court concludes that law enforcement’s one-hour detention of Defendant at the scene of the crash did not impermissibly exceed either a reasonable period of time or the physical location of the detention. PPD officers found themselves in a confusing, highly charged, and emotional situation. Understanding from the crowd that Defendant—the driver—had attempted to flee the scene, placing handcuffs on Defendant and later having him sit in the police vehicle, even without a pat-down, was constitutionally permissible. To their credit,

having secured the Defendant, the limited number of on-scene PPD officers turned their full attention to trying to save the lives of three people and searching for survivors who might be trapped.

There is no dispute that Defendant remained in handcuffs and was detained for about one-hour on scene. Defendant's suggestion that Officer Rossman's one-time imprecise use of the 10-15 code, Officer Rossman's conversation with EMS about Defendant being "in custody," and the senior officers' discussion of not wanting to start the running of the speedy trial clock, did not convert this detention into a *de facto* arrest. First, Officer Rossman believed 10-15 could be used for detention. Second, Defendant was told several times that night that PPD was investigating and that they had not made any determination as to whether he would be taken to jail. Third, the PPD officers acted as efficiently and expeditiously as possible given the resources they had and in the situation they encountered.

Nor did the PPD's decision to send Officer Uruchima to the hospital transform PPD's involvement with Defendant into a *de facto* arrest. While this action is more concerning to the Court, as the Court found, the purpose of Officer Uruchima going to the hospital was to await Defendant being medically cleared so that Officer Rossman could come speak to him for purposes of the accident investigation. Officer Uruchima went instead of Officer Rossman so that Officer Rossman could remain on scene to continue the accident investigation.

The more senior officers discussed and reminded Officer Rossman the distinction between the accident investigation and any subsequent criminal investigation. All of the officers on scene agreed that there was insufficient evidence for a finding of probable cause to arrest Defendant. This discussion is not evidence that Defendant was arrested; instead, it bolsters the Court's confidence that he was not *de facto* arrested. No officer individually or collectively expressly or implicitly arrested Defendant that night.

The Court easily concludes under these facts that PPD's detention of Defendant never rose to the level of a *de facto* arrest. This specifically includes any argument that Officer Uruchima's presence at the hospital created a *de facto* arrest situation. Accordingly, the speedy trial period did not commence on April 1, 2015. Defendant is not entitled to discharge.

Motion to Suppress (Blood Sample)

Defendant next contends that he was illegally detained and therefore the blood draw must be suppressed. Alternatively, Defendant contends that even if the initial detention was permissible, the passage of time prior to the blood draw made his continued detention illegal, again requiring the suppression of the blood draw. The Court disagrees agrees with Defendant's contentions.

Defendant cites to the seminal decision in Florida v. Royer, 460 U.S. 491 (1983) (plurality decision), in which the Court determined that the initial lawful

contact turned into an unlawful detention. Defendant also relies on Baggett v. State, 849 So. 2d 1154 (Fla. 2d DCA 2003), and a host of other decisions finding the temporal detention of the defendant exceeded the parameters allowed by the Fourth Amendment. None of those cases, however, are factually similar to the case here.

Courts routinely conclude that law enforcement may temporarily detain a person for officers' safety or to thwart a suspect's attempt to flee. E.g., Reynolds v. State, 592 So. 2d 1082, 1084 (Fla. 1992). Courts also conclude that continued handcuffing of an individual beyond that which is necessary under the facts of the situation is impermissible. Id. at 1085. The Second District recently confirmed this well-established law that this is a fact specific inquiry. State v. Leach, 170 So. 3d 56 (Fla. 2d DCA 2015) (reversing trial court's determination that detention was longer than necessary).

The determination of whether Defendant lawfully was detained at the time of the blood draw is of critical important here, as it implicates the appropriate burden of proof that is applicable to the issue of the consent of the blood draw. Ordinarily, the State must show that "consent was obtained and that it was freely and voluntarily given." Reynolds v. State, 592 So. 2d at 1085. In the situation where there is an illegal detention, "a consent will be found voluntary only if there is clear and convincing evidence that the consent was not a product of the illegal

police action.” Id. at 1086. The taint of prior illegal police conduct can be overcome when there is an unequivocal break in the chain of illegality such as when the police tells a detained suspect that he or she may refuse to consent to search. Findley v. State, 771 So. 2d 1235 (Fla. 2d DCA 2000).

The Court is cognizant of the Supreme Court of the United States’ recent reminder about a detention exceeding the permissible scope and duration is constitutionally impermissible. Rodriguez v. U.S., 135 S. Ct. 1609 (2015). In Rodriguez, the Court explained that a routine traffic stop prolonged even incrementally beyond the normal “mission” of the police to write the traffic ticket to allow for backup to arrive to perform a K9 check for drugs is constitutionally invalid. While a police officer may make traditional inquiries during a traffic stop—such as checking a license and determining if there are any warrants, and inspecting the registration and proof of insurance—a dog sniff “is not an ordinary incident of a traffic stop.” The Court explained that “[a] dog sniff, by contrast, is a measure aimed at detecting evidence of ordinary criminal wrongdoing.” Id. (citations omitted). As the dog sniff was not part of the ordinary mission of the traffic stop, the Fourth Amendment would not allow a traffic stop to be extended to accomplish the dog sniff. Of course, a dog sniff conducted during the “mission” of a traffic stop—that does not extend the time period of the traffic stop—is constitutionally permissible. Illinois v. Caballes, 543 U.S. 405 (2005).

In this case, though, the PPD officers found themselves not in a normal traffic stop but instead a confused situation where three individuals died. The PPD's initial handcuffing Defendant upon their arrival on scene was more than justified given the information being provided to them about the Defendant being the operator of the crashed vehicle and his efforts to leave. An investigatory detention was permitted here, as there was evidence of flight. Indeed, it is a crime for a driver of a vehicle involved in a crash to leave the scene without complying with the disclosure requirements of section 316.062, Florida Statutes. See § 316.027(2)(a), (b), and (c).

As the Court found, between ten to fifteen minutes elapsed while the on-scene PPD officers attempted to save the victims' lives and look for trapped victims. In the subsequent forty-five to fifty minutes, the PPD officers secured the scene, briefly talked with Defendant, interviewed numerous witnesses, managed the crowd, directed traffic, and otherwise performed a myriad of tasks normally associated with a traffic crash involving a fatality.

While it is correct that PPD officers soon agreed that they did not observe any signs of impairment, that does not automatically mean Defendant's continued brief detention was illegal. As presented to the PPD at that time, there were other potential crimes that deserved investigation at that moment other than a DUI charge. Even a cursory review of State Exhibit 1 from the time of Officer

Rossmann's initial conversation with the Defendant until the time a fresh blood draw kit arrived on scene demonstrates that Officer Rossmann diligently interviewed witnesses in an effort to figure out what occurred, including whether Defendant attempted to flee. Investigation into an attempt to flee the scene of an accident provided an independent basis to support the detention throughout the one-hour's detention, even though PPD early on determined it had no evidence for a DUI charge. And as the State argued, and the Court agrees, a flight risk is not something that just goes away in an hour's time. This provides additional justification for law enforcement to detain Defendant in the manner in which he was detained. The time period needed to conduct the blood draw did not extend the time period necessary for law enforcement to conduct its "mission" to investigate this crash.

Given this situation, an approximate one hour's detention was reasonable in both duration and scope. As there was nothing illegal about his detention, the State only needed to demonstrate by the preponderance of the evidence that Defendant's consent to the blood draw was freely and voluntarily given. The State met this burden.²² Accordingly, Defendant's blood draw will not be suppressed.

²² The Court reminds that if an appellate or reviewing court determines that the detention was unlawful at the time of the blood draw, the State has failed to establish by clear and convincing evidence that Defendant's consent was freely and voluntarily given. See footnote 19.

It is, therefore, ORDERED AND ADJUDGED as follows:

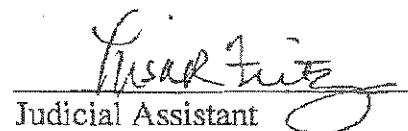
1. Defendant's Motion for Discharge filed on June 24, 2016, is **DENIED**.
2. Defendant's Motion to Suppress (Blood Sample) filed on June 22, 2016, is **DENIED**.
3. Defendant's Motion to Suppress (Statements) filed on June 29, 2016 is **DENIED WITHOUT PREJUDICE** for the same reasons the Court orally denied Defendant's Motion to Suppress (Manatee County EMS).

DONE AND ORDERED in Chambers in Bradenton, Manatee County, Florida, this 11th day of October, 2016.



Circuit Judge Hunter W. Carroll

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished this 11 day of Oct 2016 by mail/email/hand delivery to Garrett Franzen, Esq., Assistant State Attorney; and Robert N. Harrison, Esq., Defense Counsel.


Lisa Tate
Judicial Assistant

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR MANATEE COUNTY, STATE OF FLORIDA

STATE OF FLORIDA,)
)
Plaintiff,)
) Case No.
vs) 2015-CF-003289
)
CHRISTIAN KALEN CRAWFORD,)
)
Defendant.)
)

Transcript of stenographically-reported
proceedings held before the Honorable Hunter W. Carroll,
Circuit Court Judge, at the Manatee County Judicial Center, on
September 23, 2016.

APPEARANCES:

GARRETT FRANZEN
Assistant State Attorney
On behalf of the State

ROBERT HARRISON
Attorney at Law
On behalf of the Defendant

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TWELFTH JUDICIAL CIRCUIT

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PROCEEDINGS

2 THE COURT: Okay, so that should take us to Christian
3 Crawford, 2015-CF-3289. Mr. Harrison, are you ready on
4 Christian Crawford?

5 MR. HARRISON: Yes, your Honor.

6 THE COURT: Mr. Franzen, are you ready?

7 MR. FRANZEN: Yes, your Honor. May I approach really
8 quick? I just had two additional cases, in addition to all the
9 cases provided.

10 THE COURT: Did you hand these cases to Mr. Harrison?

11 MR. FRANZEN: I did, and they are both equally
12 highlighted.

13 (THE DEFENDANT WAS BROUGHT OUT.)

14 THE COURT: So the transcript is clear, I received,
15 looks like it was copied to Mr. Franzen, looks like about 17 or
16 so cases from Mr. Harrison, plus several statutes, all of which
17 I have reviewed, and certainly we're here on a number of
18 motions. Okay, and we have the entire morning blocked aside and
19 if necessary going into lunch, you want to try to get this
20 finished.

21 I have scheduled a motion to suppress the blood
22 sample; motion for discharge; motion to suppress evidence the
23 Manatee County EMS; and motion to suppress statements. Were
24 there any other motions that we're hearing this morning?

25 MR. HARRISON: No, sir.

OFFICIAL COURT REPORTERS
TWELFTH JUDICIAL CIRCUIT

1 MR. FRANZEN: You just said you would readdress the
2 State's motion to continue today as well.

3 THE COURT: All right, that's continue the trial.

4 MR. FRANZEN: Correct, nothing to do with these
5 motions themselves.

6 THE COURT: We'll talk about the trial when we're,
7 come to the end of the hearing.

8 MR. FRANZEN: That's fine, I just -- you said if
9 there was anything else on, and I was just making sure.

10 THE COURT: Now, Mr. Harrison, is this just an
11 identical copy of what you sent?

12 MR. HARRISON: Yes, that's the hard copy that I
13 promised in the email, that's already highlighted for
14 everybody; nothing new, nothing less.

15 THE COURT: Is anyone invoking the rule of
16 sequestration?

17 MR. HARRISON: Yes.

18 THE COURT: I don't know who are witnesses here or
19 not. Mr. Franzen, can you explain the rule of sequestration to
20 your witnesses, please?

21 MR. FRANZEN: I will, your Honor.

22 THE COURT: Mr. Harrison, do you have any witness
23 here?

24 MR. HARRISON: The officer's here, and then the only
25 thing we have to watch, I had subpoenaed one of the paramedics,

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1 so if she comes we need to, if we see a female come in the back
2 of the courtroom, so we don't --

3 THE COURT: I will try to be on the lookout. And is
4 this lady a witness?

5 MR. HARRISON: No, that's my client's mom.

6 THE COURT: Okay.

7 MR. FRANZEN: And Mr. Rossman in the back is a
8 witness, but he's the first one I was calling.

9 THE COURT: Well, are we going to have any argument
10 ahead of time?

11 MR. FRANZEN: I wasn't planning on it. That's up to
12 your Honor.

13 MR. HARRISON: I don't know if argument, but it might
14 kind of help to kind of tell the Court a couple-minute kind of
15 like opening like, so that we're on the same page where we're
16 going.

17 THE COURT: Okay, well, Mr. Franzen just had his
18 first witness step out.

19 MR. HARRISON: So dealing with the motions, similar
20 ones, you're going to hear testimony about how the EMS folks
21 were interviewed and the question was were they properly, was
22 notice given to my client to interview the paramedics, is that
23 allowed.

24 The, there will be testimony about, the one dealing
25 with the statements, and so the question's going to come

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1 together dealing with the statements, are they going to be
2 covering by accident report privilege or was Miranda issued,
3 and probably to make it simpler, I'll just give you, this is a
4 copy of the State's discovery that lists the statements.

5 THE COURT: So the transcript is clear, this is a --

6 MR. HARRISON: It's pages six and seven of the
7 discovery, I have an extra copy if we want it filed with the
8 Clerk. It's already filed with the Clerk.

9 THE COURT: That's fine, I just was looking for a
10 date to reference on the discovery.

11 MR. HARRISON: It was in January of this year, but
12 rather than print out the whole part, I just printed out --

13 MR. FRANZEN: I believe it was from January 5, your
14 Honor.

15 THE COURT: Okay.

16 MR. HARRISON: So dealing with those statements, a
17 couple of the statements, the Christian Carlos is a lay person,
18 that's not part of this that I've alleged in the motion, Walter
19 Suggs is not listed as part of the motion. On the second page,
20 the first one with Rossman is part of it. The Poole, Rivera,
21 and Johnson are all lay witnesses, that's not part of the
22 motion; Landis is EMS, so that's part of it.

23 THE COURT: So Carlos, Suggs and you said Jackson?

24 MR. HARRISON: On the second page-

25 THE COURT: When you say second page, you mean page

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1 seven?

2 MR. HARRISON: Yes, page seven. On page seven the
3 middle three witnesses are the lay witnesses. The one at the
4 bottom that doesn't have officer that's Landis, is a paramedic.
5 I guess on the first page it's also the same thing.

6 THE COURT: Okay, well, on page six, I see Eddy Leo
7 Jackson.

8 MR. HARRISON: That's also paramedic.

9 THE COURT: Oh, is it a paramedic?

10 MR. HARRISON: Yes. And Lieutenant Jacob Saur is also
11 a paramedic, so in that third column we've got Officer Rossman
12 and three paramedics.

13 THE COURT: Okay, I understand, I was getting a
14 little confused because they're -- okay. So Christian Carlos,
15 Walter Suggs, Ms Poole, Luis Manuel Rivera-Gonzalez, and Robert
16 Johnson, those statements are not addressed by that motion at
17 all; is that all correct?

18 MR. HARRISON: Okay, let's just make sure, I'll just
19 go through each of these, 'cause I'm getting a little confused
20 myself, listening back.

21 First one, Christian Carlos, lay witness, not part of
22 the motion today.

23 Number two, it's hybrid to the extent that it's going
24 to the officer; that would not come in.

25 The third one, Rossman is an officer. And then the

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1 next three are all paramedics, so that's being addressed today.

2 On page seven, the first one, Rossmann; that's being
3 addressed today.

4 The next three are all lay witnesses, are not being
5 addressed today, that's Poole, Rivera-Gonzalez, and Johnson,
6 and the last one, Landis, that's a paramedic, being addressed
7 today.

8 THE COURT: Okay.

9 MR. HARRISON: Dealing with the motion for discharge,
10 that addresses the filing of the information. The incident
11 took place on April 1st, my client was handcuffed that night,
12 ultimately unhandcuffed. An arrest warrant, he was arrested
13 like 173 or -4ish days later, and then 21 days afterwards,
14 which would get us somewhere in the mid 190s, is when the
15 information was filed.

16 If the Court finds that he was arrested on the night
17 of the offense, the information was not timely filed. If the
18 Court finds that that was --

19 THE COURT: And there is no ability for a recapture?

20 MR. HARRISON: Correct. If it had been filed
21 within --

22 THE COURT: And that was a question, that wasn't a
23 statement.

24 MR. HARRISON: Yes, yes, and there would be -- there
25 is no recapture if it's not filed within 175 days of the

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1 arrest. So if the arrest, if the Court finds the only arrest
2 took place in September of 2015, then the motion gets denied.
3 If the Court finds that there wasn't an arrest, State might
4 argue differently, but factually one of the things you're going
5 to be listening for is was that a temporary detention or was
6 that an arrest. So that just -- I think kind of helps as we
7 listen through dealing with the issues.

8 The last motion, dealing with the blood, deals with
9 the consent for that blood. So I've got one thing here that I
10 think will help. During the time that my client was handcuffed
11 in the back of the squad car, you're going to hear that's when
12 he was asked to submit to the blood. One of the questions is
13 going to come down to was he being legally detained at that
14 point. If he was being illegally detained, then as a matter of
15 law the consent is tainted by that. So the question is, was he
16 being legally detained in both duration and scope dealing with
17 the handcuffing.

18 So those are some of the issues that you're going to
19 need to look at. And kind of, even though we're going to be in
20 argument later down the road, this is kind of a little summary
21 that I kind of put in to ultimately what's going to happen,
22 since there's no search warrant. If my client was being
23 illegally -- there's no illegal detention, the question is,
24 State's got to prove by preponderance of the evidence voluntary
25 consent.

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1 If there was an illegal detention, then you're going
2 to have to look at was it still going on or was there a break,
3 and the State's burden is by clear and convincing evidence that
4 there was some sort of break and cites the cases that I have in
5 there. So that's kind of an outline, you know what the
6 critical issue is, which you probably figured out from reading
7 my motion and the case law.

8 THE COURT: Kind of sketched out a decision tree.

9 MR. HARRISON: Yes. I tried to do some type of flow
10 chart and I was pulling out hair and I don't have much to pull
11 out, so I gave that up.

12 THE COURT: I don't have much more than you, so.
13 Anything else you want to tell me, and then I'll let
14 Mr. Franzen tell me a couple things and then we'll start with
15 the witnesses.

16 MR. HARRISON: No, I think that addresses the issues
17 of the four motions.

18 THE COURT: Mr. Franzen?

19 MR. FRANZEN: Yes, I'll obviously reserve my argument
20 for the end.

21 But to kind of help out a little bit, as far as the
22 motion to suppress labeled Manatee County EMS statements from
23 interviews with EMS, it's also kind of part of the motion to
24 suppress statements as well, anything through the EMS. The
25 argument being made by Defense is that's because it's a

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1 violation of Florida Statute Section 401.30, which covers very
2 specifically medical records. Interviews, statements,
3 observations, are not records. Paperwork, reports, run
4 reports, EMS reports, medical reports, those are records.
5 Those are not interviews with observation, 401.30 nor any part
6 of that statutory section covers interviews and spoken word of
7 EMS or any other medical thing, so the statute does not cover
8 that and they're not suppressible.

9 As far as the motion to suppress the blood sample and
10 motion for discharge, we're simply going to be arguing that the
11 detention was reasonable for investigatory purposes over the
12 time period that he was being held, and the reason he was being
13 held, given the circumstances, and we'll get into that, that it
14 did not rise to the level of defacto arrest kicking in speedy
15 trial that night.

16 We won't be arguing -- if your Honor determines that
17 it wasn't defacto arrest and initiating speedy trial, we don't
18 have any argument over numbers. I agree with what you and
19 Defense Counsel just said, there wouldn't be a recapture
20 period. If speedy trial started running that night, then the
21 information was filed too late and it would be a speedy trial
22 discharge. We simply disagree that speedy trial started
23 running that night.

24 And the motion to suppress the statements, the first
25 part having to do with accident report privilege basically --

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1 THE COURT: Can we go back to the discharge issue?

2 MR. FRANZEN: Yes, your Honor.

3 THE COURT: There were two of the cases that
4 Mr. Harrison cited that talked about a trial Judge using the
5 motion for discharge as, basically considered it to be the
6 recapture. So you're saying that that, that wouldn't apply in
7 this particular case?

8 MR. FRANZEN: I don't believe so. My understanding
9 of the speedy trial case law is that we have 175 days to file
10 from date of arrest. If we file it on day 176, we're done, and
11 don't really have much of an argument. If we, the recapture
12 comes more into play if we've actually filed it before day 175
13 but they're not actually properly served or arrested, like we
14 had to issue a capias, I think that comes into play.

15 MR. HARRISON: That was one of the facts in one of the
16 cases.

17 MR. FRANZEN: And that's I think what one of the
18 facts were. So I don't think a recapture period would play into
19 this. It's, I think it's pretty much going to be defacto
20 arrest to the level that it initiated speedy trial, then we're
21 beyond speedy trial. If it's not a defacto arrest to the level
22 that initiated speedy trial and the arrest was when he was
23 actually arrested, then it was filed within 20 days or so and
24 we're totally fine.

25 THE COURT: Okay.

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1 MR. FRANZEN: The only other thing I think to address
2 at this point the motion to suppress with accident report
3 privilege. There is an interview that was conducted I believe
4 a day or two after the incident, after Mr. Crawford was
5 discharged from the hospital and sent home. Then Officer
6 Rossman went and interviewed him at his home. It was not
7 Mirandized. I think he even specifically states this is for,
8 about the accident. We will not be making any argument that
9 that is not covered by accident report privilege, so Mr.
10 Harrison doesn't need to cover that part.

11 THE COURT: On this discovery sheet, pages six and
12 seven, are there any statements that are covered by that?

13 MR. FRANZEN: I don't think specifically, because I
14 think a lot of the statements they're having, that are listed
15 here, what it was, at least my interpretation of it from what
16 I've heard, and you'll hear the testimony and some of the
17 recording here in a little bit, is that Officer Rossman got a
18 lot of that information that night but not by a direct
19 interview of the defendant. He wasn't really questioning him
20 about the crash that much. What he did was, he overheard him
21 talking to the EMTs and stuff about it. So that wasn't really
22 an interview for purposes of the accident report privilege, it
23 wasn't an interview at all, it was statements he heard him
24 making. So our argument is that's not an interview, it wasn't
25 accident report privilege, it wasn't done for those purposes.

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1 And the statements that Officer Rossman and maybe others heard
2 at the scene are going to be admissible, but we're not going to
3 contest the interview that's done a couple days later, whenever
4 it was. That was clearly an interview that was presented as
5 one for the Florida Statute, I think it's 316.06 sub (4) for
6 accident report, and there was no switching of hats or
7 initiating Miranda. So that's where the State's coming from.

8 THE COURT: Call your first witness.

9 MR. FRANZEN: State would call Mr. Rossman, Kris
10 Rossman to the stand.

11 THE COURT: The only thing I ask, you guys don't
12 speak too fast so our court reporter can get everything down
13 without any problems.

14 **KRIS ROSSMAN**

15 was called as a witness by the State; and, having been
16 duly sworn, testified as follows:

17 **DIRECT EXAMINATION**

18 MR. FRANZEN: May I proceed, your Honor?

19 THE COURT: Yes, sir.

20 BY MR. FRANZEN:

21 Q Good morning, sir. Could you please state your full
22 name, spelling your last name?

23 A Kristopher Ryan Rossman, R-o-s-s-m-a-n.

24 Q All right. How are you currently employed, sir?

25 A I work for Aramark Uniform Services in Ft. Myers,

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1 Florida.

2 Q Going back to April 1st of last year, 2015, how were
3 you employed?

4 A I was employed -- last year?

5 Q April 1st of 2015, yes?

6 A With the Palmetto Police Department.

7 Q Okay. And were you a law enforcement officer with
8 the Palmetto Police Department?

9 A Yes, sir.

10 Q And how long total were you an officer with the
11 Palmetto Police Department?

12 A Three years.

13 Q Any other law enforcement experience outside of that?

14 A No, sir.

15 Q Directing your attention to April 1, 2015, the early
16 morning hours of that, did you have the occasion to come
17 across, be called out to the scene of a traffic homicide or
18 traffic crash?

19 A Yes.

20 Q And was that around 2:00, 2:30 in the morning?

21 A Yes.

22 Q And approximately what was the location of that
23 crash?

24 A It was in, I think it's Lone Oak Mobile Home Park off
25 U.S. 41 and 7th Street.

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1 Q That's in the City of Palmetto?

2 A Yes.

3 Q Where were you, if you recall, when you first got the
4 dispatch to go out there?

5 A I think I was at the Police Department.

6 Q And were you driving a marked patrol vehicle, lights,
7 sirens, and the whole business?

8 A Yes, sir.

9 Q And was your patrol vehicle equipped with some sort
10 of camera recording device?

11 A Yes.

12 Q Was it actually working that night?

13 A Yes.

14 Q And is that something you would have been activating
15 and recording with on this specific evening?

16 A Yes.

17 Q When you arrived at the scene you've described, were
18 you the first law enforcement or any other emergency responder
19 at the scene?

20 A I was.

21 Q Can you please briefly describe what you first did
22 and what you first observed when you arrived?

23 A There were a lot of people in the front yard, and I
24 walked up to see what was going on, and they kind of directed
25 my attention to a tree that was next to the trailer. There was

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1 a Chevy TrailBlazer had crashed into it, there was debris
2 everywhere.

3 Q And what did you do from there?

4 A Bystanders actually told me there were people trapped
5 in the wreckage, so I went over there and pulled the people
6 out.

7 Q Okay. Were you able to determine at that time
8 whether the people you were pulling out were still alive or
9 deceased?

10 A I don't have the medical experience to judge that.

11 Q Okay, you were just getting them out of the wreckage?

12 A Yes.

13 Q Did, could you tell at that time, just based on your
14 just initial quick observation, did it appear that this SUV
15 that you saw was the cause of the wreckage you saw there?

16 A Yes.

17 Q There in those first few minutes were you able to
18 determine from either the, you said bystanders on the scene or
19 anything else like that, who the possible driver of that
20 vehicle was, and whether he was still, he or she was still on
21 scene?

22 A Yes.

23 Q How were you able to determine that?

24 A Some of the bystanders said the guy who was driving
25 is over there, and they pointed me in that direction. And I

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1 went over there and that's where I found him.

2 MR. HARRISON: Judge, to the extent, dealing with
3 hearsay, dealing in motion hearings, if I can just have a
4 standing objection dealing with bystanders to some extent.
5 Hearsay could be admissible to establish why they're doing
6 that, but if at some point the State is going to rely on
7 hearsay and the truth of the matter asserted for any type of
8 critical issues, that they need to have competent evidence. I
9 don't want to sit here and be objecting throughout the whole
10 hearing, but they cannot rely on totally hearsay for anything
11 critical.

12 MR. FRANZEN: I understand I can't rely on totally
13 hearsay to establish any critical element, but to establish
14 their reasons why they might be holding an investigatory stop,
15 everything anybody's telling them all goes to the effect on the
16 listener and why they're doing it. Whether it actually was
17 true, whether something happened or not, it's what they're
18 being told and what they understand at the time. So I think
19 all of it is very critical.

20 THE COURT: Okay. And Mr. Harrison, I'm somewhat
21 reluctant to give you a standing objection. I understand what
22 you're saying, but if there comes to be a time where you think
23 they're trying to use it for the truth of the matter asserted,
24 I would rely on you to at that point make your objection.

25 MR. HARRISON: I think that if they're trying to

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1 establish, you know, the effect on this officer, that's okay.
2 If they're trying to rely upon what somebody else --

3 THE COURT: If they're using the hearsay to make him
4 the wheel witness, is that when you're trying to say?

5 MR. HARRISON: Or about -- no, I don't think the wheel
6 witness because of the circumstances around it. I'm not, along
7 those lines. But if they're trying to use something that
8 another witness told them for a valid reason to detain him, we
9 would need to have evidence for that. You know, so if we're
10 getting into a reason why he should be handcuffed, so-to-speak,
11 I would -- I think that we need to have live testimony on that
12 because that goes right to the heart of our motions.

13 THE COURT: Okay. For this particular objection I'm
14 going to overrule the objection.

15 MR. FRANZEN: Okay.

16 THE COURT: I agree on the effect on the listener.

17 MR. FRANZEN: Okay.

18 BY MR. FRANZEN:

19 Q So I believe you said some of the bystanders said
20 he's over there and pointed to a direction where you saw a
21 individual. And what was the situation with the individual
22 they were pointing at, what was he doing or where was he?

23 A He was like kneeled on the -- I don't know if he was
24 kneeled or sitting on the ground. There were a couple of guys
25 around him, and then one of the guys had like his hand on his

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1 shoulder. And then he, you know. Okay.

2 Q Did you personally go over to this suspect at that
3 time and either handcuff him or was that some other law
4 enforcement that took care of that?

5 A I did go over there, but I did not handcuff him.

6 Q Okay. When you went over there, what was your
7 interaction or your actions that you took when you were over
8 there?

9 A I talked to the, the guys who were over there said
10 hey, this is the guy who was driving, he's trying to run.

11 MR. HARRISON: Objection to the extent they're trying
12 to say he's trying --

13 MR. FRANZEN: It's going to the effect on the
14 listener and the basis for why they take their next actions.

15 THE COURT: Overruled.

16 BY MR. FRANZEN:

17 Q So they tell you this is the guy who's driving and he
18 was, they tell you he was trying to run?

19 A Yes.

20 Q At some point during this does, do either you or
21 another law enforcement officer detain him?

22 A Yes.

23 Q Okay. And when he's detained, is he put in
24 handcuffs?

25 A Yes.

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1 Q And where is he put once he's in handcuffs?

2 A He's placed in the back of my patrol vehicle.

3 Q Okay. Were you the one that did that?

4 A I was not.

5 Q And do you know who it was that did that?

6 A I think it was Sergeant Martinez at the time.

7 Q And we've already talked about that you had a dash
8 cam recording that night. Was it recording pretty much the
9 entire time from when you were dispatched to your entire time
10 out there?

11 A Yes, sir.

12 Q Did you review a recording of that in my office
13 yesterday in preparation for this motion?

14 A Yes.

15 Q Was it a fair and accurate recording of your
16 recollection of everything that the dash cam could have
17 possibly recorded or seen that evening?

18 A Yes.

19 MR. FRANZEN: At this time I would admit State's
20 Exhibit 1 into evidence, your Honor, it's a video and audio
21 recording of the dash cam.

22 MR. HARRISON: No objection.

23 THE COURT: State's 1 will be admitted.

24 (STATE'S EXHIBIT 1 WAS RECEIVED.)

25 MR. FRANZEN: And your Honor, at this time I'd like

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1 to publish, and I'm going to have the officer testify to
2 various parts and kind of skip through some parts, just to kind
3 of save some time, so your Honor gets a good idea of the time
4 frame, of the amount of time taking place and what's actually
5 going on.

6 THE COURT: Hopefully our system works, I know they
7 were working on it this morning.

8 MR. HARRISON: It's actually mostly audio, because the
9 camera's not pointing towards anything. So it --

10 MR. FRANZEN: Yeah, you're not going to see anything
11 very exciting.

12 THE COURT: I don't need to dim the lights?

13 MR. FRANZEN: No, you're going to see a couple of
14 cars and blue lights and an ambulance, but you won't ever
15 really see too many law enforcement officers or I don't think
16 you ever see the defendant really, it's more the audio.

17 MR. HARRISON: The car's pointing away from where the
18 crash scene is, so the camera's pointed the wrong direction.
19 And then it kind of takes over and it's mostly audio.

20 THE COURT: All I was going to do is turn the lights
21 down so I could see the TV.

22 MR. FRANZEN: All right.

23 (THE EXHIBIT WAS PUBLISHED TO THE COURT AND REPORTED BY THIS
24 REPORTER TO THE BEST OF HER ABILITY AS FOLLOWS:)

25 BY MR. FRANZEN:

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1 Q And so is this you leaving the Police Department like
2 you described?

3 A Yes.

4 Q And it's showing the time of April 1, 2:22 going on
5 to 2:23 a.m.; is that accurate?

6 A Yes.

7 Q And then is this the location you previously
8 described?

9 A Yes.

10 *You go to the right, Kelly (unintelligible).*

11 *(Unintelligible) trailer park.*

12 *(Unintelligible).*

13 MR. FRANZEN:

14 Q Okay, it looks like you're coming to a park here, the
15 time was 2:25 in the morning; is that correct?

16 A Yes.

17 Q And is this then the time during which you did the
18 actions you described, going and pulling the people out of the
19 wreckage and seeing the suspect for the first time?

20 *(Unintelligible)*

21 THE COURT: Mr. Franzen, can you pause that for a
22 moment?

23 MR. FRANZEN: I will.

24 (VIDEOTAPE PAUSED)

25 THE COURT: Do we need to turn that volume down a

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1 little bit, or is that good for the court reporter?

2 MR. FRANZEN: Yeah, the radio traffic, I can't really
3 ever understand from just the audio. Unless you listen to it
4 probably a hundred times with the headphones, at least for the
5 purposes of what I'm trying to present, I don't think the radio
6 traffic is necessarily relevant at this point. If Mr. Harrison
7 disagrees and wants to play a particular part, I'm sure he will
8 and is welcome to it.

9 MR. HARRISON: There's parts of it that's inaudible,
10 parts of it that's audible. The, I know one of the parts that
11 they just played right there was part of one of the clips that
12 I had. You know, where they said the driver's being held down
13 behind a trailer, I don't know if you're able to hear that.

14 THE COURT: I did not hear that.

15 MR. HARRISON: But that started on that tape right
16 there, you're at 2:26:16, that looks like 10 seconds earlier.

17 THE COURT: Okay.

18 MR. FRANZEN: I think from listening to it, I'll
19 agree with Mr. Harrison that that was said on radio traffic
20 about that time, that seems to be probably accurate.

21 THE COURT: That he was being what?

22 MR. HARRISON: It said the driver was being held down
23 behind the trailer, something to that effect, which goes along
24 with what Officer Rossman just testified about, the client
25 being held down. So that just, timing wise, just helps it put

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1 it all together.

2 THE COURT: And I'm assuming that's by civilians?

3 MR. FRANZEN: Correct, that's what the testimony's
4 been, yes, your Honor.

5 (VIDEOTAPE RESUMED)

6 (Unintelligible) address, I'm (unintelligible).

7 MR. HARRISON: I do think if you turn the volume down
8 it might be a little -- that sounds a little distorted, as
9 opposed to -- I don't want to interrupt how you're doing it,
10 but Judge, if you're playing with the volume?

11 THE COURT: I just turned it down a little bit.

12 MR. HARRISON: There's later points where, with the
13 microphone in the car, you'll want to --

14 (Unintelligible).

15 (Unintelligible).

16 We have (unintelligible) (unintelligible) also have
17 (unintelligible) number 1071 07.

18 (Unintelligible).

19 THE COURT: Mr. Franzen, can I have you stop for a
20 second?

21 MR. FRANZEN: Yes, sir.

22 (VIDEOTAPE PAUSED)

23 THE COURT: Okay, you both have cheat sheets that are
24 giving specific times that you're listening to. Do you have a
25 cheat sheet you can give to me that doesn't have your notes on

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1 it so I have some help? You guys have listened to this a lot,
2 this is the first time I've heard it, and there's a lot going
3 on and I'm trying to pay attention to that which you want me to
4 pay attention to.

5 MR. HARRISON: Here is, because I was going to give
6 this to everybody here dealing with -- there's a video and
7 there's also some Dispatch, so those are times, and I kind of
8 put my notes, my notes are not a verbatim, so that's a general
9 contents, but it's not word-for-word. So that kind of helps me
10 say this is why, what's important there.

11 And if it makes it go quicker, Mr. Franzen, I have a
12 copy of the 10-codes, so when you hear 10 something, if you
13 want to know what that is, to help listen to it. Would you
14 like me to give that to both of you all now, or I can wait
15 until my turn. But if you're listening, this is what we got
16 from the Palmetto Police Department.

17 THE COURT: Okay. Any objection to me reading the
18 10-codes?

19 MR. FRANZEN: No.

20 THE COURT: I will tell you I don't know what the
21 10-codes are, so.

22 MR. FRANZEN: I grew up with a cop dad, that's the
23 only reason I know.

24 MR. HARRISON: And if you want, there's times on the
25 videos where they'll say a squad car number and it refers to a

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1 particular officer. We can go through the officers, or I can
2 tell you what, I'll be happy, to make it go quicker, tell you,
3 read into the record, if they agree, I think it makes it go
4 smoother, or I can do it during examination.

5 THE COURT: Mr. Franzen?

6 MR. FRANZEN: However you want to handle it, your
7 Honor.

8 THE COURT: Whatever is the quickest and easiest way
9 you both agree to.

10 MR. HARRISON: Yeah. When you hear former Officer
11 Rossman -- you were 315, that was your squad unit?

12 THE WITNESS: Yes, sir.

13 MR. HARRISON: So whenever you hear 315, that's
14 referring to Officer Rossman. If you hear 302, that's Corporal
15 Kelly. If you hear 304 -- is Metzger.

16 THE COURT: Metzger.

17 MR. HARRISON: 317 is Urr --

18 THE WITNESS: Uruchima.

19 MR. HARRISON: What he said, U-r-u-c-h-i-m-a, for the
20 court reporter.

21 205 is Martinez, 101 is the police chief?

22 THE WITNESS: Yes, sir.

23 MR. HARRISON: And 103 is the Captain?

24 THE WITNESS: Yes.

25 MR. HARRISON: So a lot of times you'll hear something

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1 on there that will say, for example, from 302 to 315, that
2 means Kelly's getting ready to say something to Rossman, and
3 that's who's talking. And that will help decipher between that
4 and hearing 10-codes, you'll hear Signal 1 referred to, that's
5 a DUI investigation, correct?

6 THE WITNESS: Yes.

7 MR. HARRISON: And Signal 7 I think is death?

8 THE WITNESS: Yes.

9 MR. HARRISON: If you hear THI, you probably know
10 that, but that's for Traffic Homicide Investigator. And so
11 I'll let you know -- I know it helped me a lot, once I put
12 together that little code, so this doesn't sound --

13 THE COURT: So Signal 7 is death?

14 MR. FRANZEN: Dead body, yes.

15 THE COURT: Dead body.

16 MR. HARRISON: So at some point you'll probably hear
17 something like possible Signal 7 times two, which would be
18 possibly two dead bodies. I don't know if we've gotten there
19 yet or not.

20 MR. FRANZEN: And my little time I don't think really
21 helps you out. I'll point out and have him testify the parts
22 that I'm trying to point out. It's more just a guy, so I know
23 if I can skip around a lot, a little bit.

24 Is it okay to resume, your Honor?

25 THE COURT: Yes, sir.

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1 (VIDEOTAPE RESUMED)

2 BY MR. FRANZEN:

3 Q Officer Rossman, as you're doing your investigation
4 throughout this time, approximately how many people were on
5 scene?

6 (Unintelligible)

7 A Like including like everybody?

8 Q How about just non law enforcement, how many?

9 A At least 10 to 15, easy.

10 Q Okay.

11 (Unintelligible).

12 (Unintelligible).

13 At the (unintelligible).

14 (Unintelligible).

15 THE COURT: You want to say something, Mr. Harrison?

16 (VIDEOTAPE PAUSED)

17 MR. HARRISON: I'm just trying to think how to sit
18 there and make the only record -- there is not a transcript of
19 this.

20 THE COURT: Well, I will tell you, I'm catching
21 probably about one out of every ten words.

22 MR. FRANZEN: Okay.

23 THE COURT: And I don't know if that's just the radio
24 traffic that you said that's going to come up unintelligible.

25 MR. FRANZEN: That's my -- as far as what I'm going

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1 to be trying to get across through this, the radio traffic
2 doesn't matter that much to me. Mr. Harrison wants to point
3 out things from radio traffic, that's fine. Most of what I
4 think is important to hear for these motions is you're going to
5 hear the actual voices of people on scene, and be able to tell
6 kind of when things are happening and when communications are
7 happening. But yeah, I don't have a transcript.

8 (VIDEOTAPE RESUMED)

9 (Unintelligible).

10 (Unintelligible) on call.

11 (Unintelligible).

12 (Unintelligible) medical.

13 I've got a vehicle went into a trailer at Lone Oak,
14 possible Signal 7 times two, one pregnant female, and right now
15 EMS is here, I got to let you go. Hear me?

16 (VIDEOTAPE PAUSED)

17 BY MR. FRANZEN:

18 Q Okay, whose voice was that that we just heard
19 talking?

20 A Sergeant Martinez.

21 Q Who is driving your vehicle currently?

22 A Sergeant Martinez.

23 Q And what's he doing with the vehicle?

24 A Like he's getting it out of the way so EMS can come
25 through.

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1 Q At the point that Sergeant Martinez is driving this
2 vehicle, is the suspect, Mr. Crawford, in custody in the back
3 of your vehicle?

4 A I don't know.

Q Okay.

6 (VIDEOTAPE RESUMED)

7 (Unintelligible).

8 Commander (unintelligible) 23.

9 Commander Battalion 1, (unintelligible) 23.

10 Commander (unintelligible).

11 | Advise (unintelligible) ?

12 (VIDEOTAPE PAUSED)

13 BY MR. FRANZEN:

14 Q Whose

15 A Corporal Kelly.

16 THE COURT: I do.

17 was.

18 MR. FRANZEN: I will back it up just a moment, I
19 don't know if it was anything particularly significant, but
20 I'll back it up.

21 (VIDEOTAPE RESUMED)

22 Commander Battalion 1, (unintelligible) 23.

23 Commander (unintelligible).

24 Can you call this (unintelligible) advise
25 (unintelligible).

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1 (Unintelligible) man.

2 Command from 223, is it better to get access from
3 behind the (unintelligible) or (unintelligible) from on 41?

4 It looks like from behind the (unintelligible)

5 (Unintelligible)

6 (Unintelligible) (unintelligible) for response.

7 (Unintelligible) coming down now, looking
8 (unintelligible).

9 Copy, have a confirmed DOA, we're looking for other
10 (unintelligible).

11 (Unintelligible) on scene.

12 (Unintelligible) command.

13 Go ahead to 43.

14 (Unintelligible) come on by, I just got to the
15 backyard at 7th Street here, it looks like there is a break in
16 the fence. You can get out there, we're in front of your
17 vehicle right now, but can you meet us out there?

18 Go ahead and come around here, come up, looks like
19 right here at the corner there's really a cargo trailer
20 (unintelligible).

21 (Unintelligible) pregnant female.

22 Go ahead and cancel the other (unintelligible), there
23 is going to be one (unintelligible) like a (unintelligible).

24 Copy that. Can you confirm if one of the DOAs is a
25 pregnant female?

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1 (Unintelligible).
2 Thank you.
3 (Unintelligible) back up (unintelligible).
4 (Unintelligible).
5 (Unintelligible) 18 cancel.
6 (Unintelligible) you can cancel, (unintelligible)
7 also (unintelligible).
8 Copy.

9 And are all (inaudible) up.
10 One second, sir.

11 Yes, Kelly can go start getting witnesses?
12 Yes.

13 (VIDEOTAPE PAUSED)
14 BY MR. FRANZEN:

15 Q And whose voice is the primary voice we're hearing
16 right now?

17 A That's mine.

18 Q That's yours? It is 2:37:54 a.m. as far as the clock
19 time, it's 15 minutes 15 seconds as far as when the clock
20 started on the video.

21 (VIDEOTAPE RESUMED)

22 We know what happens (inaudible)?

23 Yeah.

24 He also made a comment to me saying (inaudible) on
25 the road, dude, you know what I mean, so hold (unintelligible)

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1 because we might have to do the Miranda thing. (Unintelligible)
2 deputy, so we have to (unintelligible) so that will come, you
3 know what I mean, but just hold on one minute. We already have
4 (unintelligible), you know what I mean. But we'll go from
5 there. I got (unintelligible).

6 All right.

7 (VIDEOTAPE PAUSED)

8 BY MR. FRANZEN:

9 Q Okay, it sounds like -- was that again still you
10 being the primary one talking there?

11 A Yes.

12 Q Okay. And it sounds as if you were talking about
13 possibly at some point switching hats and Miranda. What were
14 you guys talking about there?

15 A Yes, possibly at some point in the future.

16 Q Okay. Had anybody Mirandized him at that point?

17 A No, sir.

18 Q Throughout the entire time you're there does anybody
19 read him Miranda to your knowledge?

20 A No, sir.

21 Q To your knowledge does anybody this night ever
22 conduct any kind of formal interview with him, Mirandized or
23 not?

24 A No, sir.

25 Q And then there was a statement that we heard where

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1 you said something along the lines trying to get accurate as
2 possible, but we have him dead to rights so he's not going
3 anywhere, something to that effect. What were you talking
4 about there?

5 A That was Sergeant Martinez.

6 Q Okay, that was Sergeant Martinez saying that. What
7 did you take him to mean when he was saying that?

8 A That we have him as the driver, he was the one
9 driving the vehicle.

10 Q Okay. And it sounds like that was based on
11 statements that he got from witnesses or from the defendant or
12 both?

13 A From the defendant.

14 Q Okay.

15 (VIDEOTAPE RESUMED)

16 You are, so we're going to have to (unintelligible)
17 so you have your time. I call (unintelligible), tell them I
18 need more units to cover the road, you know what I mean,
19 (unintelligible) hold off on that still reading Miranda. Also
20 having (unintelligible) coming because they have to do the
21 search warrant.

22 For the vehicle or?

23 (VIDEOTAPE PAUSED)

24 BY MR. FRANZEN:

25 Q Okay, you're talking about, we heard you talking

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1 about a search warrant there. What were you referring to?

2 A That was Sergeant Martinez.

3 Q That was Sergeant Martinez again?

4 A Yes.

5 Q What was he talking about possibly having to do a
6 search warrant?

7 A He said they would have to do a search warrant, I
8 don't know what he was referring to.

9 Q Okay. Was this a conversation he was having with you
10 and other law enforcement?

11 A Sounds like it was just me right there.

12 Q Okay.

13 (VIDEOTAPE RESUMED)

14 All right, there are two folks in the
15 (unintelligible), they're kind of in a hurry to leave,
16 (inaudible) this is his wallet, don't move; that all right?

17 (VIDEOTAPE PAUSED)

18 BY MR. FRANZEN:

19 Q Okay, there it sounds like Sergeant Martinez is
20 talking to you about two possible witnesses; is that correct?

21 A Yes.

22 Q And he says they're in a hurry to leave, so basically
23 we need to question them soon?

24 A Yes.

25 Q And it sounds like he's making reference to a wallet,

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1 is that in reference to the suspect's wallet?

2 A Yes.

3 Q Was he actually giving that to you?

4 A I don't remember.

5 (VIDEOTAPE RESUMED)

6 All right, we got more (unintelligible) coming in
7 (unintelligible), all right.

8 (VIDEOTAPE PAUSED)

9 BY MR. FRANZEN:

10 Q Okay, it sounds like we hear a lot of screaming and
11 crying in the background. What's going on there?

12 A That's the family members and the friends of the
13 victims who were in the -- in the trailer at the time.

14 Q Was that something you were also having to contend
15 with that evening when you were dealing with the situation?

16 A Yes.

17 Q And at this point how many law enforcement officers
18 are on scene?

19 A It was myself, Sergeant Martinez, and Corporal Kelly.

20 Q So it was still just the three of you?

21 A Yes.

22 (VIDEOTAPE RESUMED)

23 (Unintelligible). I say we were second responding
24 unit, but yeah, okay. You called them.

25 What is the time, there was a female?

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1 I don't believe 15, what's -- station one.

2 (Unintelligible).

3 All right. And the male?

4 (Unintelligible).

5 Okay. And you (unintelligible) what is your name,
6 sir?

7 A-g-d-i-e-r-o-a-u-d-i.

8 | Yeah,

9 (VIDEOTAPE PAUSED)

10 BY MR. FRANZEN:

11 Q And is that you or is that Sergeant Martinez there?

12 A That's me. At this point I have my microphone on my
13 person.

14 Q Okay, and who are you talking to there that you're
15 having them spell out A-u-d-r-a?

16 A It's either one of the witnesses or one of the
17 paramedics. If you play it a little more and I get more
18 context of what we're talking about.

19 (VIDEOTAPE RESUMED)

20 (Unintelligible).

21 (Unintelligible).

22 Yes.

23 16, you got?

24 (VIDEOTAPE PAUSED)

25 BY MR. FRANZEN:

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1 Q It sounds like you're talking about a EMS number?

2 A Yes, that would be a paramedic.

3 (VIDEOTAPE RESUMED)

4 (Unintelligible) all right.

5 And who else is with you?

6 (Unintelligible)

7 Okay. And as far as date of birth and all that, I
8 don't know.

9 And which one is he?

10 He's -- right there.

11 Hey man, hey, what is your date of birth, man?

12 January 15, '86.

13 (VIDEOTAPE PAUSED)

14 BY MR. FRANZEN:

15 Q Is that the suspect that you're talking to, as far as
16 getting the date of birth?

17 A No, it sounds like another EMT or EMS.

18 (VIDEOTAPE RESUMED)

19 Me and Audry.

20 And you're, who was the other medic, the two of them?

21 They showed up later.

22 Later?

23 Yeah.

24 All right, the medic (unintelligible)?

25 (VIDEOTAPE PAUSED)

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1 BY MR. FRANZEN:

2 Q It sounds like you just said, The medics or the
3 paramedics are going to clean you up, man. Is that accurate?

4 A Yes.

5 Q And who are you saying that to?

6 A I'm not sure.

7 Q Okay.

8 (VIDEOTAPE RESUMED)

9 (Unintelligible)

10 (VIDEOTAPE PAUSED)

11 MR. FRANZEN: I'm going to skip ahead just about a
12 minute. And just for the record, I skipped ahead, it's 21:45
13 as far as the play time on the disc, and that would be about
14 2:44 a.m.

15 (VIDEOTAPE RESUMED)

16 On the road.

17 We don't even know yet. We've only got three units
18 tonight, so we had to call some people in to come help us out.

19 (VIDEOTAPE PAUSED)

20 BY MR. FRANZEN:

21 Q Was that you talking again?

22 A Yes.

23 Q It sounded like you were talking about that you
24 didn't even know whether something was hit out on the road yet?

25 A Correct.

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1 Q Is that accurate? Okay, and that, you were saying at
2 that point that you still only had three units out there and
3 were waiting for other units to arrive?

4 A Yes.

5 MR. FRANZEN: I'm just going to skip ahead almost a
6 minute to almost the 23-minute mark, as far as playing, it's
7 about 2:45.

8 (VIDEOTAPE RESUMED)

9 *We got two dead on arrival. The guy in back of my*
10 *car was driving. We haven't determined what happened out there*
11 *yet, he said somebody ran him off the road, he come through*
12 *here. There were two people in bed; a woman, she was eight*
13 *months pregnant, and a male. They were both dead when we got*
14 *here, (unintelligible) got here, they called it, so we're going*
15 *from there. We have some wheel witnesses say he was trying to*
16 *get away, some of the neighbors caught him, he's in the back of*
17 *the car now, so we're -- until we get, you know --*

18 *(Unintelligible).*

19 *No, not, that's -- not that I can see, but --*

20 *Okay.*

21 *Law enforcement, well, probably (unintelligible) get*
22 *a warrant.*

23 *Martinez has CID coming out and a couple more units*
24 *for the road, to cover the road.*

25 *(Unintelligible) vehicle over there.*

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1 Yeah, the white, over there.

2 MR. HARRISON: Can I make --

3 (VIDEOTAPE PAUSED)

4 MR. HARRISON: Trying to get the appropriate time and
5 not interrupt the flow, dealing with an objection.

6 To the extent that they're putting in the record what
7 a neighbor said about him potentially trying to get away, I'm
8 going to object to hearsay to the extent that it's for the
9 truth of the matter, trying to establish that he was trying to
10 get away. I understand the hearsay to explain why they're
11 dealing with it, but that's a bone of contention, that he was
12 trying to get away. If I could have a standing objection to
13 any hearsay about that, then I won't have to interrupt.

14 THE COURT: I will grant you a standing objection on
15 the, on hearsay grounds on anything having to do with alleged
16 fleeing.

17 MR. HARRISON: Okay, thank you.

18 MR. FRANZEN: Is that overruled at this point, your
19 Honor?

20 THE COURT: But the objection is overruled and you
21 can continue.

22 MR. FRANZEN: Thank you.

23 (VIDEOTAPE RESUMED)

24 Not as of right now, we're just going to continue our
25 investigation, figure out what's going on and what happened

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1 here, okay.

2 Yes, sir. I'm not under the influence, I promise I
3 was (unintelligible) off the road, I made (unintelligible),
4 that's all I know, that's (unintelligible)

5 Okay.

6 (VIDEOTAPE PAUSED)

7 BY MR. FRANZEN:

8 Q Okay, right there, I think that was your voice again
9 and who's the other voice?

10 A Mr. Crawford.

11 Q Okay, and it sounds like he may have asked you
12 something, you said something to the effect not right now,
13 we're still continuing our investigation. Do you recall what
14 he initially said to you?

15 A I don't remember. If -- yeah, I don't remember.

16 Q And then it sounded like he was making some
17 statements to you about what he was saying happened, that he
18 swerved off the road and things to that effect, correct?

19 A Yes.

20 Q Had you specifically asked him, I didn't hear it, but
21 did you specifically ask him a question, hey, what happened, or
22 anything at that point?

23 A No.

24 Q Okay, thank you.

25 (VIDEOTAPE RESUMED)

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1 (Unintelligible) see what we going on, all right,
2 man?

3 | No, I don't.

4. Driver's license or --

5 I do. (Unintelligible)

6 Telling two different stories too.

7 Did he?

8 Story he told me was someone hit him from the back
9 end and pushed him into the fence. And second story he says
10 someone (unintelligible) him and then took off. And he said he
11 totally blacked out. If he totally blacked out, how the hell
12 do you know somebody swerved into the car?

Very good information to --

14 (VIDEOTAPE PAUSED)

15 BY MR. FRANZEN;

16 Q And is this a civilian witness that you're talking
17 to?

18 A Yes.

19 (VIDEOTAPE RESUMED)

20 --for the report here. All right, (unintelligible)
21 What's your name, sir?

22 (Unintelligible)

23 (Unintelligible)

24 Okay. And Mr. Suggs, what's your phone number for
25 you?

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1 526-2337.

2 2337.

3 Yeah, or 737-6151. (Unintelligible)

4 737-6151.

5 Yes, sir.

6 So when's the first time that you saw him?

7 Well, he was still in the truck.

8 Okay, so you live out here?

9 Right here.

10 So you heard.

11 A terrible crash. We were watching TV, 15 minutes
12 later we went to bed, we heard this bang, so I went outside and
13 found the gentleman, he was still in the truck, you know, he
14 was trying to get out.

15 Okay.

16 So then he did get out, and then he told me, the
17 first thing he told me was someone hit him in the back end and
18 pushed him in, but there is no damage to the back of the truck,
19 okay. And then after he tried to run and then he was body
20 slammed to the ground then he said someone, he said I totally
21 blacked out, but someone swerved in front of me and then they
22 took off. Well, he's going the wrong way too, because he
23 should be heading south, not north.

24 Right.

25 So it looks like he's going on the wrong side of the

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1 road too. And other people said (unintelligible) that he
2 flipped out there in the road, I don't know, I haven't went out
3 there. But he's telling two different stories at least.

4 (Unintelligible)

5 (Unintelligible) it looks a little deformed, I don't
6 know, running after him.

7 You guys going to take him?

8 That's up to you, whether you want to take him off.

9 (VIDEOTAPE PAUSED)

10 BY MR. FRANZEN:

11 Q It sounds like a female voice that you're now talking
12 to about, is it talking about injuries of the suspect, of Mr.
13 Crawford's?

14 A Yes.

15 Q Okay, and is that an EMT that you're talking to?

16 A Yes.

17 (VIDEOTAPE RESUMED)

18 But that's up to you.

19 2053 15. He's going to need stitches in his right
20 knee. But it's up to us whether to transport him or stay here.

21 10-4. (Unintelligible).

22 (Unintelligible)

23 All right, I have to get my truck, we're going to go
24 ahead and transport him, we'll (unintelligible) up there with
25 you guys, because he's under our --

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1 Who's going to transport him?

2 You guys.

3 (Unintelligible)

4 For purposes, he's in custody right now, so why don't
5 you just take him over there, it's just over the bridge.

6 (Unintelligible).

7 Yeah, for purposes, you can just go, you can just
8 take him.

9 And as far as the CHI scene and all that?

10 (Unintelligible) CHI. (Unintelligible) I prefer it,
11 wouldn't you?

12 No.

13 Tim's on vacation.

14 All right. Well, I'll take him then.

15 (Unintelligible).

16 (VIDEOTAPE PAUSED)

17 BY MR. FRANZEN:

18 Q Okay, so it sounds like you shifted your conversation
19 to possibly another fellow law enforcement officer; is that
20 accurate?

21 A That was Detective Sergeant Ryan LaRowe.

22 Q That's who you're talking to there, that's you
23 talking to him?

24 A Yeah.

25 Q And it sounds like you were kind of talking about two

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1 different things. The first one sounds like the possibility of
2 transporting Mr. Crawford to the hospital; is that accurate?

3 A Yes.

4 Q And was it Detective Sergeant LaRowe?

5 A Yes.

6 Q Was he the one saying for you to go with the suspect
7 to the hospital if that happened?

8 A Yes.

9 Q Okay. Was he saying you should transport him in your
10 vehicle, or you should follow the EMTs if they take him?

11 A I don't know if he was telling me to go or go with
12 him.

13 Q Okay, does that actually happen here in the next
14 couple minutes at all or no, that doesn't happen?

15 A No, nobody goes anywhere.

16 Q And then it sounds like you guys are having a
17 conversation about still trying to get a actual THI on the
18 scene; is that what was said?

19 A Yes.

20 Q And what is a THI?

21 A Traffic Homicide Investigator.

22 Q So at this point you're still, it sounds, obviously
23 you have Detective Sergeant LaRowe on scene so you have some
24 more law enforcement, but you're still waiting on your full
25 personnel to be able to conduct a full investigation?

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1 A Yes.

2 MR. FRANZEN: And for the record, this is just shy of
3 30 minutes on the recording. And it's about 2:52 a.m.

4 (VIDEOTAPE RESUMED)

5 A little bit.

6 He's (inaudible) consent to it.

7 Take care of that (unintelligible)

8 (Unintelligible).

9 (VIDEOTAPE PAUSED)

10 BY MR. FRANZEN:

11 Q Okay, and it sounds like you're continuing to have a
12 conversation with Detective Sergeant LaRowe there?

13 A I'm not sure who that is.

14 Q Okay, but this would be recording from your
15 microphone on you?

16 A Yes.

17 Q Okay. And it sounded like, and just correct me if
18 I'm wrong, that the conversation you're having has to do with
19 you were talking about basically why don't you guys try to see
20 if he'll consent to a blood draw; is that accurate?

21 A Yes.

22 Q And you or somebody says well, he'll have to stay
23 here for that. Is that accurate?

24 A Yes.

25 (VIDEOTAPE RESUMED)

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1 They said they can wrap it up temporarily, it's not
2 that --

3 Okay, I didn't know that.

4 Probably gain consent.

5 I don't know about Metzger.

6 You have a kit in your car?

7 Yeah.

8 Well, EMS is here and they --

9 Get that little form that's inside.

10 (Unintelligible).

11 Change of plan. As of right now we're not going to
12 transport him. I'm going to try to get consent for a blood
13 draw, and if he does, I'll ask you guys to get that for me.

14 Okay.

15 So let me get my kit. It's in the trunk.

16 Okay.

17 (VIDEOTAPE PAUSED)

18 BY MR. FRANZEN:

19 Q And when you're saying kit, what are you referring
20 to?

21 A Blood draw kit.

22 Q Is that something you typically carry around in your
23 vehicle or in the trunk of your vehicle?

24 A Yes.

25 Q Is that some sort of standard issue prepackaged kit?

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1 A Yes.

2 (VIDEOTAPE RESUMED)

3 *You guys want to get your bottle?*

4 *Did you already get that out? Did you get that out*
5 *of my trunk?*

6 *Not out of my trunk.*

7 *You did.*

8 *Hospital --*

9 *(Unintelligible) yeah.*

10 *(Unintelligible).*

11 *I'll keep it.*

12 *Success.*

13 *I haven't talked to him yet, this one's expired.*

14 (VIDEOTAPE PAUSED)

15 BY MR. FRANZEN:

16 Q Okay, it sounds like you hadn't talked to the
17 suspect, Mr. Crawford, yet, correct? And then you said this
18 one's expired. What was that about?

19 A The blood draw kit that we had was expired.

20 Q Do you remember when it expired?

21 A In 2010.

22 Q And this was in 2015, correct? So could you have,
23 would you have performed, tried to have a blood draw with an
24 expired kit like that?

25 A No.

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1 Q Okay.

2 MR. FRANZEN: I can pause right here if you want.

3 MR. HARRISON: I was just asking when he gets to a
4 breaking point my client really needs to go to the bathroom, if
5 we're at a good point.

6 THE COURT: We'll take a five-minute break.

7 (RECESS.)

8 THE COURT: You ready to proceed?

9 MR. FRANZEN: As soon as you are, your Honor.

10 THE COURT: Let's go.

11 (VIDEOTAPE RESUMED)

12 That was the (unintelligible).

13 Yes, one moment, please.

14 Hey, Walter.

15 Walter?

16 Oh, I have the wrong -- I have the wrong ID card.

17 (VIDEOTAPE PAUSED)

18 BY MR. FRANZEN:

19 Q All right, it sounds like you just talked to somebody
20 and called them Walter. Who were you talking to?

21 A I was talking to Mr. Crawford.

22 Q You said, Sorry, I had the wrong ID card in my hand?

23 A Yeah, I had the ID in my hand and I saw Walter.

24 Q So now this is you having a conversation with Mr.
25 Crawford in the back of your patrol?

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1 A Yes.

2 THE COURT: And this is at 2:55 and what?

3 MR. FRANZEN: 33 minutes and 15 seconds on the
4 recording, and 2:55 and 55 seconds a.m. on April 1st.

5 (VIDEOTAPE RESUMED)

6 (Unintelligible)

7 You consent to a blood draw and all that?

8 Yeah, absolutely, man.

9 We'll go ahead and do that right now and get it cut
10 the way, okay?

11 (VIDEOTAPE PAUSED)

12 BY MR. FRANZEN:

13 Q All right, it sounds like you just engaged talking to
14 him, and what did he say to you?

15 A You guys can take my blood.

16 Q Had you even at that point even started speaking to
17 him about possibly getting consent for the blood draw?

18 A No.

19 Q So this is something he's volunteering at that point?

20 A Yes.

21 THE COURT: Mr. Franzen, I want to hear that exchange
22 again, please.

23 MR. FRANZEN: Yes, your Honor. What was the time for
24 that?

25 THE COURT: 2:55:55, but put it back about five

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1 seconds before that.

2 (VIDEOTAPE RESUMED)

3 No, I believe you.

4 (Unintelligible)

5 That was the last blood draw.

6 Yeah, give me one moment, please.

7 Hey, Walter.

8 Walter?

9 I'm sorry, I have the wrong ID card.

10 Okay. You guys can draw my blood and everything.

11 So you give consent to blood draw and all that?

12 Absolutely.

13 Okay, we'll go ahead and do that and get it out of
14 the way.

15 (Unintelligible)

16 Just give me one moment, okay, Walter?

17 Okay, you need (unintelligible)

18 Right now we're still investigating, right, so we're
19 just (unintelligible) right now. You want me to
20 (unintelligible) for you?

21 Stand up and turn around here for me, okay?

22 (Unintelligible).

23 Loosening his handcuffs?

24 Turn around for me? Is that better?

25 Yeah.

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1 How's the other one?
2 Tight too, man.
3 Okay. How's that?
4 That works.
5 All right, (unintelligible) give me a moment, all
6 right, man?
7 Excuse me, guys.
8 Yeah.
9 Sir?
10 Yes, ma'am.
11 The guy that was driving the van when we and my
12 boyfriend came up, we was first ones on the scene. He's
13 (unintelligible) the van, so you may want to check it.
14 I'm still in the process, I still have your ID, give
15 me one moment. Has someone spoken to you? Okay.
16 Hey, Martinez, I have consent, however
17 (unintelligible) another one. They're going to do the draw
18 here. Do they have it, or do they have their own?
19 We have to use our own, don't we?
20 (Unintelligible)
21 After we get the draw, what are we going to do with
22 him?
23 Just, (unintelligible) deputy with him and then
24 Metzger's on the way. (Unintelligible) I want somebody more
25 experienced (unintelligible).

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1 Okay. All right. What we're going to do, this
2 expired in 2010, so an officer is going to go to the station
3 and grab a new one. So he's going to go do that, come back and
4 do the draw, and then I think we're going to transport him and
5 (unintelligible) up there with him.

6 All right. I'd rather have it (unintelligible).

7 (VIDEOTAPE PAUSED)

8 BY MR. FRANZEN:

9 Q Okay, it sounds like at that point that was your
10 voice talking on the video?

11 A Yes.

12 Q Okay. And you gave explanation that you didn't have
13 any blood kits that weren't expired on the scene; is that
14 correct?

15 A Correct.

16 Q And that you had to wait, and it sounded like was
17 somebody going to, somebody, you had sent somebody or somebody
18 had sent somebody to get a good or a valid blood kit?

19 A Yes.

20 Q So were you having to wait on that?

21 A Yes.

22 Q Okay. While you're waiting, do you then conduct
23 interviews, do additional investigation into what actually
24 happened that evening?

25 A Yes.

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1 Q Is that what's contained over the next bit of time on
2 the video, as far as any audio we hear with you?

3 A Yes.

4 (VIDEOTAPE RESUMED)

5 Yeah.

6 (Unintelligible)

7 (VIDEOTAPE PAUSED)

8 MR. FRANZEN: Okay, your Honor, it's, on the
9 recording it's at about, it's pretty much 3:00 a.m., it's at
10 37 minutes and about 30 seconds, as far as the recorded time
11 goes. Based on the testimony of Officer Rossman and kind of
12 knowing where stuff is, I'm going to forward this to about
13 20 minutes, where we'll pick up again getting back to the
14 situation with the defendant. Unless you want me to play
15 something else?

16 MR. HARRISON: The interviews that were being done
17 were all being done with people other than my client?

18 THE WITNESS: Yes.

19 MR. HARRISON: Okay, then there's no reason to do it.

20 BY MR. FRANZEN:

21 Q There were interviews with civilian witnesses from
22 the scene?

23 A Yes.

24 Q There were multiple different witnesses you talked
25 to?

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1 A Yes.

2 Q And did they give you -- I don't want to get into the
3 details, but did they give you similar information as far as
4 what you heard from other witnesses, that the defendant had
5 tried to run when he was initially there?

6 MR. HARRISON: Objection, leading, and that's still
7 going to be, you know, hearsay really, if they're trying to
8 establish that.

9 THE COURT: Same ruling, and you have the standing
10 objection on that, Mr. Harrison.

11 BY MR. FRANZEN:

12 Q Did they provide you that information?

13 A Yes.

14 MR. HARRISON: Well, Judge, if they're going to try to
15 say that there is other evidence on this video, to have him
16 summarize it through a leading question from the prosecutor,
17 that's -- that's improper, and kind of hard to even address
18 that as evidence.

19 MR. FRANZEN: Just trying to get the effect on the
20 listener, did someone tell him additionally, rather than having
21 to play all the interviews, get that one thing that they said
22 he ran. Again, I'm not asserting it's true that he ran, I'm
23 not going to be arguing on an accident report privilege that he
24 waived it because he fled the scene, he's not charged with
25 leaving the scene of an accident. But as far as an explanation,

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1 among one of the reasons why they detained him there while
2 they're conducting their investigation and everything, is
3 they've been told he tried to leave the scene. It goes to the
4 effect on the listeners, the law enforcement, and why they're
5 taking their actions.

6 THE COURT: Objection overruled.

7 MR. FRANZEN: So I'm going to skip to about
8 57 minutes, as far as the recorded time. I'll tell you the
9 time of night that is, it should be about -- 3:20. We'll start
10 right there, we're just shy of 3:20 a.m., it's 3:19:11.

11 (VIDEOTAPE RESUMED)

12 All right.

13 Back to the truck.

14 Okay, I'll get him out and bring him up there.

15 Okay. Want to grab the kit too?

16 (VIDEOTAPE PAUSED)

17 BY MR. FRANZEN:

18 Q Pausing it for a moment, Mr. Rossman, what's going on
19 here in the recording?

20 A At this time we're preparing to do the blood draw.

21 Q Are you, so are you going to hand him over to the
22 EMTs that are on scene?

23 A Not hand him over, but we're going from the patrol
24 car to the EMS truck.

25 Q Okay.

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1 (VIDEOTAPE RESUMED)

2 All right, we're going to go to the ambulance to do
3 the blood draw and your vitals, make sure they're all okay.
4 You want to stand up for me? Turn to the right, walk straight
5 (unintelligible).

6 Have him go up there, or --

7 No, he can (unintelligible)

8 Okay.

9 You got that kit with you? I need to fill out the
10 paperwork.

11 Okay.

12 (VIDEOTAPE PAUSED)

13 BY MR. FRANZEN:

14 Q Once you get Mr. Crawford to the EMTs, where are they
15 located, are they at a ambulance or the station or --

16 A Yeah, the ambulance is actually behind my patrol car.

17 Q Okay. So are you at the, what is it, at the back of
18 the ambulance?

19 A Yes.

20 Q Okay. And how many EMTs are there, if you recall?

21 A There were at least three ambulances there.

22 Q I mean, as far as that would have just been dealing
23 with Mr. Crawford at this particular time when you took him
24 back to that one ambulance?

25 A At least two or three.

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1 Q Okay. And it sounds like you're talking about
2 getting him where they want him, as far as being able to look
3 him over and treat him and doing whatever they have to do,
4 including the blood draw, correct?

5 A Yes.

6 Q When you're doing this, during this process, once
7 you, for lack of a better term, handed him over to the EMTs so
8 they can do their job, do you keep the handcuffs on him or are
9 the handcuffs removed?

10 A I don't remember.

11 Q Okay. Do you know whether at any point you remove
12 the handcuffs while they're doing this?

13 A I don't remember.

14 Q Okay.

15 (VIDEOTAPE RESUMED)

16 One (unintelligible) for me.

17 (VIDEOTAPE PAUSED)

18 MR. FRANZEN: Your Honor, I'm going to forward about
19 four or five minutes.

20 Okay, we're at 3:27 a.m., and it's at an hour four
21 minutes and 25 seconds, as far as the play time.

22 (VIDEOTAPE RESUMED)

23 Are you right-handed or left-handed?

24 (Unintelligible) left-handed.

25 Okay. If I could just have you sign the consent form

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1 here. It's just for the blood draw right here on the bottom.

2 All right. (Unintelligible).

3 (VIDEOTAPE PAUSED)

4 MR. FRANZEN: I'm just going to pause it briefly.

5 And I'm approaching the witness with what's been premarked as
6 State's Exhibit 2 for identification purposes.

7 MR. HARRISON: No objection to it being introduced,
8 when you explain what it is.

9 MR. FRANZEN: Thank you.

10 THE COURT: The Court will receive Exhibit Number 2.

11 (STATE'S EXHIBIT 2 WAS RECEIVED.)

12 MR. FRANZEN: Thank you, your Honor.

13 BY MR. FRANZEN:

14 Q Can you tell us what that is please?

15 A It's the receipt and the paperwork that comes inside
16 the blood draw kit.

17 Q Is this an accurate copy of the form that you had Mr.
18 Crawford sign that night and that you filled out?

19 A Yes.

20 Q And is that what, is this a copy of the form that we
21 just heard you talking about on --

22 A Yes.

23 Q Okay.

24 MR. FRANZEN: Would you like to look at this, your
25 Honor?

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1 THE COURT: I will.

2 MR. FRANZEN: And just let me know when you're ready
3 to keep playing.

4 MR. HARRISON: I've got extra copies if you want --

5 THE COURT: Yeah, do you mind if I have an extra one?

6 MR. FRANZEN: May I proceed, your Honor?

7 THE COURT: Yes, sir.

8 (VIDEOTAPE RESUMED)

9 (Unintelligible)

10 Smoke any marijuana (unintelligible)?

11 Methadone.

12 You said you went to the clinic yesterday morning?

13 (Unintelligible)

14 Today's Wednesday.

15 Tuesday morning, (unintelligible)

16 (Unintelligible).

17 (VIDEOTAPE PAUSED)

18 BY MR. FRANZEN:

19 Q And who is talking right now that we can hear?

20 A It's the medics and Mr. Crawford.

21 Q And it sounds like they're talking about possible
22 drugs that he's saying might be in his system and when he may
23 have used them?

24 A Yes.

25 (VIDEOTAPE RESUMED)

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1 And that's how often?

2 (Unintelligible).

3 (VIDEOTAPE PAUSED)

4 BY MR. FRANZEN:

5 Q Are you participating in any of that conversation?

6 A No.

7 (VIDEOTAPE RESUMED)

8 What time do you normally take it every day?

9 In the morning, 7:30.

10 (VIDEOTAPE PAUSED)

11 BY MR. FRANZEN:

12 Q Where would you have been standing when the
13 conversation between Mr. Crawford and the medics is taking
14 place, would you have been standing right there while they're
15 talking?

16 A Yes.

17 (VIDEOTAPE RESUMED)

18 (Unintelligible)

19 (Unintelligible)

20 Okay.

21 (VIDEOTAPE PAUSED)

22 MR. FRANZEN: And I'm going to forward this again
23 just about eight, nine minutes here.

24 (VIDEOTAPE RESUMED)

25 Chevy.

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1 (VIDEOTAPE PAUSED)

2 MR. FRANZEN: And we're at about 3:38 a.m. at this
3 point. And it's an hour and 15, almost 16 minutes play time.

4 BY MR. FRANZEN:

5 Q And before I continue with the recording, once the
6 medics on the scene were done with Mr. Crawford -- I'm assuming
7 they did actually draw his blood after you got the consent,
8 yes?

9 A Yes.

10 Q And they did whatever else that they were doing with
11 him. What happened with Mr. Crawford after that?

12 A He went to the hospital.

13 Q Who took him to the hospital?

14 A The medics, he went on the ambulance.

15 Q And he was on the ambulance?

16 A Yes.

17 Q Would any of law enforcement have ridden in the
18 ambulance with him?

19 A I think they would have followed behind.

20 Q In a separate car, but not in the ambulance with him?

21 A Correct.

22 Q And what was the reason for him going to the
23 hospital, to the best of your knowledge?

24 A Well, they said he needed stitches.

25 Q And were those from injuries that were, as far as you

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1 could tell, sustained in the crash?

2 A Yes.

3 (VIDEOTAPE RESUMED)

4 You want to get (unintelligible) start
5 (unintelligible) kit going?

6 Yeah, you (unintelligible) got --

7 I don't see any signs of Signal 1. We got to
8 potentially go do the blood draw.

9 (VIDEOTAPE PAUSED)

10 BY MR. FRANZEN:

11 Q Okay, whose voice was that?

12 A That's mine.

13 Q It says you don't see any signs of a Signal 1?

14 A Yes.

15 Q What's that mean?

16 A DUI.

17 Q And it sounds like you said we're going to have to go
18 with the blood draw; is that what you said?

19 A I think so.

20 (VIDEOTAPE RESUMED)

21 They are going to take him to the hospital. He's not
22 (unintelligible), we are going to try to get a blood draw or --

23 (VIDEOTAPE PAUSED)

24 BY MR. FRANZEN:

25 Q Did I hear you say he is not 10-15?

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1 A Can you play back?

2 Q Yes.

3 (VIDEOTAPE RESUMED)

4 They are going to take him to the hospital, but he's
5 not 10-15.

6 (VIDEOTAPE PAUSED)

7 BY MR. FRANZEN:

8 Q Is that what you just said?

9 A Yes.

10 Q He's not 10-15?

11 A Correct.

12 Q And what is 10-15?

13 A Arrest.

14 Q So you're saying he's not under arrest at that time?

15 A Correct.

16 (VIDEOTAPE RESUMED)

17 Okay, we are going to try to get a blood draw or --
18 we don't want to start speedy trial.

19 (VIDEOTAPE PAUSED)

20 BY MR. FRANZEN:

21 Q And I think somebody said we don't want to start
22 speedy trial. Is that accurate?

23 A Yes.

24 Q Was that your voice?

25 A No, that was Sergeant Martinez.

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1 Q Sergeant Martinez you were talking to?

2 A Yes.

3 (VIDEOTAPE RESUMED)

4 We have unit, we have (unintelligible) DUI or
5 whatever it is we may have, manslaughter times three, the
6 (unintelligible) you start pretrial, so essentially what we're
7 discussing right now, so because (unintelligible)
8 (unintelligible)

9 (Unintelligible) 10-15 is right. Long time to figure
10 out why, (unintelligible), people died (unintelligible), so
11 that at first as (unintelligible) you know what I'm saying, so,
12 (unintelligible) but as far as that goes, (unintelligible) not
13 right here obviously, because (unintelligible) take him to the
14 hospital.

15 (Unintelligible) ID.

16 Yes.

17 DL good and all that?

18 I haven't run his DL yet. (Unintelligible) right now
19 we're trying to figure out, we don't really want to 10-15 him
20 at this point.

21 That's what we were just talking about.

22 He did try to run.

23 Yeah, but any charge (unintelligible) from this
24 charge --

25 We do want to try to get, I know he (unintelligible),

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1 but we do want to try to get a voluntary statement from him
2 obviously (unintelligible)

3 You want to do that, get a voluntary statement?

4 Yeah, he has to go get treated, but (unintelligible)
5 back to the station after he gets treated. (Unintelligible)

6 Are they going to do primary, you just going to
7 (unintelligible) search warrant, (unintelligible)

8 You got (unintelligible)

9 Yeah, I'll have (unintelligible) hospital.

10 Sounds like a plan.

11 That means (unintelligible) as long as he's
12 (unintelligible), then (unintelligible) (unintelligible) soon
13 as we can, boom, not right here. Do you know (unintelligible)

14 Yeah, (unintelligible)

15 The other thing, too, is make sure when you go to
16 interview him change your hats. Make sure it's clear, DUI
17 and (unintelligible)

18 You already (unintelligible)

19 We already signal (unintelligible), taking pictures,
20 going to do the measurements, he's not (unintelligible), if you
21 can get a statement.

22 (Unintelligible)

23 And then Miranda.

24 No.

25 (Unintelligible) DUI.

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1 Well, I don't suspect him of DUL. I don't suspect
2 any kind of Signal 1, so --

3 (Unintelligible) make sure he's aware of change of
4 hats, but (unintelligible), if you don't read him Miranda
5 basically --

6 Make sure you do change of hats.

7 And that's, when do we officially complete this so we
8 do the change of hats?

9 Make sure, go to the hospital, he gets treatment, at
10 the hospital (unintelligible) we don't have enough
11 (unintelligible) to bring him back to the station. So if he
12 says I don't want to talk to you, we're done.

13 Okay, all right. So you're going to go to the
14 hospital with him, let him get treated, better yet,
15 (unintelligible) better yet, I'll have (unintelligible), he's
16 ready, when he's already treated you can go up there. But
17 you're not (unintelligible) wasting time, (unintelligible),
18 once you're up there, go ahead and change hats, and so in the
19 meantime not to waste time, I'll have (unintelligible) go up
20 there and whenever he's ready then you go up there.

21 All right, that works.

22 Because basically what happens, they're going to do
23 the (unintelligible) photographs, which will probably be a lot
24 better, they can do the diagramming, measurements
25 (unintelligible)

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1 Yeah, they're actually saying he's okay and they're
2 leaning toward they want us to take him.

3 No. (Unintelligible) had talk about that.

4 317 here.

51 (Unintelligible)

6 So I'm going to (unintelligible)

7 No, not (unintelligible).

8 Okay, I need to (unintelligible).

9 | (End of audio)

10 MR. HARRISON: There is no more audio on the rest of
11 it.

12 THE COURT: Do we need to publish anything more on
13 State's 1?

14 MR. FRANZEN: No, your Honor, and it ends about 3:44
15 in the morning, about an hour and 22 minutes of recorded time.

16 And I don't believe I have any other questions at
17 this time, your Honor, for this witness.

18 THE COURT: Mr. Harrison?

CROSS-EXAMINATION

20 MR. HARRISON: I may possibly have to use your
21 computer to play --

22 MR. FRANZEN: No problem.

23 MR. HARRISON: And I restarted my laptop, that's when
24 Windows decided they were doing its automatic update.

25 MR. FRANZEN: No, feel free.

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1 THE COURT: Mr. Franzen, behind you.

2 MR. FRANZEN: Thank you, your Honor.

3 BY MR. HARRISON:

4 Q Your dash cam video started about 2:22 in the
5 morning; do you recall that?

6 A Yes, sir.

7 Q When we look at the dispatch log, you were, it
8 indicates that you were dispatched at 2:34 in the morning; does
9 that sound right?

10 A Yes, sir, about the time.

11 Q And I think we have on the reports the accident took
12 place around 2:34 or something like that; is that correct?

13 A Yes, sir.

14 Q So when we look on your camera, the clock is maybe
15 10, 12, 15 minutes, somewhere in there, fast, as far as that
16 clock. Does that seem possible?

17 A Yes, sir.

18 Q And if you were dispatched at 2:34, and it says
19 started at, the video, you leaving the station at 2:22, it
20 would be about 12 minutes, give or take; do you agree with
21 that?

22 A Yes, sir.

23 Q That night at the scene when you were dealing with
24 Mr. Crawford, was there any time that he was anything but
25 cooperative with you?

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1 A No, sir.

2 Q To your knowledge was he anything but cooperative the
3 entire time with all the law enforcement officers in the scene?

4 A He was cooperative.

5 Q Was there anything that he did as far as dealing with
6 law enforcement officers dealing with any directions that they
7 had that would make him noncompliant?

8 A No, sir.

9 Q Was there anything that Mr. Crawford did that was
10 combative in any nature that you're aware of with you or any
11 law enforcement officer that night?

12 A No.

13 Q Did he, to your knowledge was -- Mr. Crawford make
14 any threats of any type of violence towards you or to any other
15 law enforcement officers?

16 A No.

17 Q Did you ever pat Mr. Crawford down for weapons?

18 A I don't think so.

19 Q Do you know if he ever was patted down for weapons?

20 A I don't know.

21 Q To your knowledge was there ever any weapons found on
22 Mr. Crawford or any reason to believe that he was armed or
23 dangerous towards law enforcement that evening?

24 A No, sir.

25 Q Signal 1 that we heard, Signal 1 is --

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1 A DUI.

2 Q DUI. And we heard a number of times throughout the
3 video that you or other officer were asked if there were signs
4 of Signal 1; is that correct?

5 A Yes.

6 Q And there were no signs of Signal 1 that you observed
7 of Mr. Crawford that night, is what we heard on the video,
8 correct?

9 A Correct.

10 Q Dealing with the last little conversation about, that
11 we heard about the transportation and no Signal 1 or talking
12 about a 10-15, that was a conversation between you and Sergeant
13 Martinez?

14 A And the police chief.

15 Q The police chief was part of that also?

16 A Yes.

17 Q Was -- is it Corporal Metzger?

18 A Yes, sir.

19 Q Was he part of that conversation?

20 A I don't -- no, I don't think he was.

21 MR. HARRISON: And Judge, just on the cheat sheet
22 where it says Metzger, that's myself making an educated guess,
23 because we got the audio after the deposition, so on the very
24 last one where it says Officer Metzger, that's probably
25 Martinez.

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1 BY MR. HARRISON:

2 Q Do you know when the police chief got there?

3 A No, sir. I believe during the time frame that we
4 just heard him, the last few minutes, that was one of the first
5 times I'd spoken to him.

6 Q So around the time of the blood draw?

7 A Yes, sir.

8 Q I guess that conversation we heard there was actually
9 after the blood draw, 'cause you had sounded like you were
10 stating to Sergeant Martinez or to somebody that the Palmetto
11 Police was going to transport Mr. Crawford to the hospital, and
12 I heard, somebody says, No, hold on, I'll go talk to somebody,
13 and it ultimately ended up he was transported by a ambulance
14 instead of Palmetto Police; is that correct?

15 A Yes.

16 Q So that's when, that conversation after the blood
17 draw, it was decided that the paramedics would transport my
18 client to the hospital, correct?

19 A Yes.

20 Q We heard a part on the video where they were asking
21 is he left-handed or right-handed; did you hear that?

22 A I think that might have been me asking if he might
23 have been left-handed or right-handed.

24 Q And would the reason of that help jog your memory?
25 Because on State's 2 you had my client sign on a form, correct?

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1 A Yes.

2 Q So you need to know what his dominant hand was so you
3 could release that from the handcuffs so he could sign; is that
4 correct?

5 A I would think so.

6 Q That makes sense then.

7 So during the time that Mr. Crawford was handcuffed
8 in the back of the patrol car, and it sounds like that was,
9 after the first few minutes that was pretty much the entire
10 time; is that correct?

11 A Yes, sir.

12 Q There was no attempt to interview him or get a formal
13 statement from him; is that correct?

14 A Not at that time.

15 Q And in fact, the only thing that, as far as dealing
16 with Mr. Crawford as far as part of investigation, was trying
17 to get the blood draw; was that correct?

18 A Yes.

19 Q And in fact, there was a point in time, if I heard
20 this on the video, that there was a conversation that you had
21 with the paramedic, says, We're not going -- that we don't want
22 him transported right now, we're going to try to get a blood
23 draw first; is that correct? So they held off transporting to
24 see if you were going to get a blood draw before he was sent
25 off to the hospital; is that correct?

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1 A Yes.

2 Q And then subsequently is when you went to my
3 client to get, see if you could get him to agree to take the
4 blood draw; is that correct?

5 A Yes.

6 Q And then ultimately I guess you did go to the
7 hospital, correct?

8 A I -- I don't remember if I did or not.

9 Q Do you remember going to the hospital -- let's see.
10 So you're 315, correct?

11 A Yes.

12 Q So would it potentially help refresh your
13 recollection if you see what was on the Palmetto Police report?

14 A Yes.

15 Q If it showed 3:15 for a new location at 7:08 to MMH,
16 that would be Manatee Memorial Hospital, correct?

17 A Yes.

18 Q And then going back, it says new location for you at
19 8:00 and 54 seconds at Long Oak would be back at the scene of
20 the crash; is that correct?

21 A Yes.

22 Q So did you go to the hospital and maybe find out that
23 my client was in surgery or something along those lines and
24 couldn't speak with them?

25 A I don't remember.

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1 Q Okay. Did you ultimately go and talk to my client at
2 his home?

3 A Yes.

4 Q Okay. Did you have to wait for him to get out of the
5 hospital?

6 A Yes.

7 Q So it was a couple days, couple days later before you
8 could speak with him; is that correct?

9 A Yes, sir.

10 Q It turned out the injuries were a little bit more
11 than stitches and he spent a couple days in the hospital,
12 correct?

13 A I don't remember exactly what the injuries were.

14 Q Okay. Did anybody ever tell you or you get the
15 report that he had a busted knee cap that needed multiple
16 surgeries?

17 A Possibly, I don't remember.

18 Q Okay. What's a 10-15?

19 A 10-15 is arrest.

20 Q And we heard at the end of the tape there that there
21 were a number of times it was being referred to Mr. Crawford as
22 a 10-15; is that correct?

23 A No, sir.

24 Q Somebody, somebody said I keep hearing he's a 10-15,
25 did you hear that at the end of that audio?

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1 A No, I said he's not 10-15.

2 Q I understand. But then as we went on through that
3 clip, somebody said, I keep hearing he's a 10-15?

4 A I don't remember that.

5 MR. HARRISON: Just give me one second to get this
6 cued up.

7 THE COURT: Are we playing off of the exhibit or
8 yours or --

9 MR. HARRISON: I got the same copy of it, I just
10 thought I could --

11 MR. FRANZEN: Are you sure it's the same exact thing?

12 THE COURT: It would help me if you could use that
13 one so I could see the time and I could make notations.

14 MR. HARRISON: Okay.

15 Okay, now, I am going to, in my cheat sheet, the last
16 little clip, so it says between 116 and 121.

17 (VIDEOTAPE RESUMED)

18 As far as that goes, (unintelligible) not right here.

19 Kind of (unintelligible), take him to the hospital.

20 Does he have an ID on him?

21 Yes.

22 DL good and everything?

23 I haven't run the DL yet, right now trying to figure
24 out (unintelligible)

25 We don't want to (unintelligible) we (unintelligible)

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1 That's what we were just talking about.

2 He did try to run.

3 Yeah, but any charge related to this charge starts
4 speedy trial. We do want to try, I know he (unintelligible),
5 but we do want to try to get a voluntary statement from him.
6 Obviously (unintelligible) after he's treated (unintelligible)
7 (VIDEOTAPE PAUSED)

8 MR. HARRISON: I might have jumped up too far.

9 (VIDEOTAPE RESUMED)

10 You want to do that, voluntary statement?

11 Yeah, (unintelligible) after he gets treated.

12 (Unintelligible) we're going to --

13 Are you going to be primary? You going to walk the
14 search warrant over there?

15 (Unintelligible)

16 (Unintelligible) at the hospital.

17 Sounds like a plan.

18 Now, he's not, not (unintelligible) (unintelligible)
19 then (unintelligible) for the purposes of, (unintelligible) not
20 right here.

21 (Unintelligible)

22 No, the other thing too, make sure that when you're
23 going to interview him you change hats. Make sure it's clear,
24 (unintelligible) DUI crash, that you (unintelligible)

25 Yes.

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1 what (unintelligible) okay (unintelligible)
2 information (unintelligible) if you can get a statement
3 (unintelligible)

4 (Unintelligible)

5 (Unintelligible) no.

6 (Unintelligible) DUI.

7 Well, I don't suspect him of DUI. I don't suspect
8 any kind of Signal 1.

9 (UNINTELLIGIBLE CROSS TALK)

10 Make sure he's aware of change of hats.

11 (Unintelligible)

12 You start reading Miranda.

13 Make sure you do change of hats.

14 When do we officially complete this so we do the
15 change of hats?

16 Make sure he goes to the hospital and gets treatment
17 at the hospital --

18 MR. HARRISON: I think I started too soon, but I don't
19 want to jump around.

20 We don't have enough (unintelligible), so if he says
21 I don't want to talk to you, we're done then.

22 All right, so here's the thing. You're going to go
23 to the hospital with him, let him get treated, better yet,
24 here's -- better yet, I'll have (unintelligible) there, when
25 he's ready, when he's already treated, you can go up there.

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1 Okay.

2 So you're not wasting time, you can do things here.

3 Once you go up there, (unintelligible) change of hats, you know
4 what I mean. So in the meantime, just to not waste time, I'll
5 have (unintelligible) go up there and whenever he's ready, you
6 go up there.

7 Okay, that works.

8 Because basically what's going to happen,
9 (unintelligible), do the (unintelligible), which would probably
10 be a lot better, if they can do the (unintelligible) and
11 possibly the (unintelligible), that would be better.

12 They're actually saying he's okay, and they're
13 leaning toward they want us to take him.

14 No, (unintelligible)

15 317 here, (unintelligible)

16 (Unintelligible)

17 Okay, so I'm going to ride up to the hospital with
18 him, then?

19 No. (Unintelligible)

20 No.

21 MR. HARRISON: I went past that point. I half -- I've
22 gone backwards to the beginning of the clip.

23 I don't see any sign of Signal 1. We got it
24 consensually with the blood draw. They are going to take him
25 to the hospital, but he's not 10-15.

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1 Correct.

2 We are going to try to get a blood draw, or -- we
3 don't want to start speedy trial. So with that being said,
4 demand, even if we have (unintelligible) DUI or whatever it is
5 that we have, manslaughter times three, anytime you use
6 handcuffs, charge him formally, you start speedy trial. So
7 essentially what we're discussing right now, because--

8 That would be my question, because I keep hearing
9 he's 10-15.

10 (VIDEOTAPE PAUSED)

11 BY MR. HARRISON:

12 Q Okay, somebody just said, That's what we're just
13 discussing right now, we keep hearing he's 10-15 and in
14 handcuffs. Did you hear that, or do you need me to replay that
15 last part?

16 A Can you replay it?

17 Q Sure. So that ended on here it's 1:17:07. So I'm
18 going to back up to 1:16:50, so we can do about 15 seconds or
19 so. And 47, this is about 20 seconds beforehand, 1:16:47 on
20 the tape.

21 (VIDEOTAPE RESUMED)

22 DUI or whatever it is that we have, manslaughter
23 times three, (unintelligible) handcuffs and charge him formally
24 starts speedy trial, so essentially what we're discussing right
25 now, because that --

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1 That was going to be my question, because I keep
2 hearing he's 10-15.

3 Right.

4 (VIDEOTAPE PAUSED)

5 BY MR. HARRISON:

6 Q So did you hear that, somebody said I keep hearing
7 he's 10-15. Is that you?

8 A No, that is Corporal Metzger.

9 Q So that's Corporal Metzger, so Corporal Metzger was
10 then on the scene?

11 A Yes, and just to clarify, you asked me before if
12 Corporal Metzger was on scene. I didn't think he was, but this
13 conversation is the police chief, Corporal Metzger, Sergeant
14 Martinez, and myself.

15 Q Okay, so when I wrote on this Metzger, I guess it was
16 part Metzger, part Martinez. So Corporal Metzger keeps saying
17 he keeps hearing the 10-15?

18 A Yes.

19 Q Had you heard 10-15 earlier?

20 A No.

21 Q Do you remember receiving a radio transmission from
22 Corporal Kelly, or I guess there were transmissions between you
23 and different officers and Corporal Kelly while you're on the
24 scene that night; is that correct?

25 A Yes.

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1 Q Do you recall a transmission where Corporal Kelly
2 would have referred to Mr. Crawford as a 10-15?

3 A I don't.

4 Q If I played you an audio from the, not from the DVD
5 but from the dispatch log, would that help refresh your
6 recollection?

7 A Yes.

8 Q Okay.

9 MR. HARRISON: I was going to put this in, so I've got
10 a complete disc I got from the State Attorney in discovery, if
11 can mark this Defense exhibit. Am I A or 1, I always forget?

12 THE CLERK: It doesn't matter to me.

13 MR. HARRISON: A. County court in Sarasota they either
14 like letters and numbers, and I always pick the wrong one when
15 I remark it.

16 So that's the dispatch. And then --

17 THE COURT: Any objection?

18 MR. FRANZEN: No objection, your Honor.

19 THE COURT: Okay, and Defendant's Exhibit A will be
20 received.

21 (DEFENDANT'S EXHIBIT A WAS RECEIVED.)

22 THE COURT: Now, is that one file or are there
23 multiple files on there?

24 MR. HARRISON: If I can show the Court. This is a
25 screen shot, to show what's happening. When they put together

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1 the file, each, rather than have a continuous file, there's
2 like 156 audio files, if I remember the number correctly. And
3 they do not actually have the time stamp. So you hear things
4 but --

5 THE COURT: So there is 156-ish audio files on
6 Defendant's Exhibit A that we just admitted into evidence?

7 MR. HARRISON: That is correct. So I am specifically,
8 because I want, for completeness, but the file that I am going
9 to play right now, and it is the third one listed on my cheat
10 sheet, and for the record it's CH-15 underline 0400 C ampersand
11 B3 underline 763. And for shortness, when they refer to the
12 files, all of the file names are identical except for that B3.
13 That's what changes when they put them in order.

14 I'd like to use my laptop because I have a copy of it
15 right here, so I don't have to get the CD.

16 (THE EXHIBIT WAS PUBLISHED AND REPORTED BY THIS REPORTER TO THE
17 BEST OF HER ABILITY AS FOLLOWS:)

18 (Unintelligible) for sure, okay, and also the --

19 THE COURT: Can you turn down the audio just a little
20 bit? Sometimes that causes it to catch the system.

21 (AUDIO PAUSED)

22 MR. HARRISON: Okay, let me just --

23 I don't know why -- let me make sure. That says --
24 that's a headphone jack, isn't it? Yes.

25 So maybe if I walk over here by the witness, if I put

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1 it over here, maybe everybody can hear it and see if this will
2 work. If not, I can go back and play it through the other
3 laptop.

4 (AUDIO RESUMED)

5 205.

6 (Unintelligible) for sure, okay, and also captain and
7 (unintelligible) also.

8 (Unintelligible) dispatch (unintelligible) 103
9 (unintelligible), if you can give them a call.

10 (AUDIO PAUSED)

11 MR. HARRISON: Maybe I got the wrong -- I was playing
12 B3, but CD is the one that I meant to play, I apologize.

13 (AUDIO RESUMED)

14 302, 315.

15 (AUDIO PAUSED)

16 BY MR. HARRISON:

17 Q So when it says 302-315, 302 is Corporal Kelly,
18 correct?

19 A Yes.

20 Q 315 is you?

21 A Yes.

22 Q So that would be the signal if Corporal Kelly were to
23 be calling you over the radio?

24 A Yes.

25 Q And what we're getting ready to hear would be that

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1 conversation.

2 (AUDIO RESUMED)

3 The black male that was holding down the 10-15, did
4 you get his 43?

5 (Unintelligible)

6 What about the other male, two of them that were
7 holding him down?

8 I just have a black female and a black male that
9 witnessed the crash.

10 10-4.

11 MSO advises that the male would definitely
12 (unintelligible)

13 (AUDIO PAUSED)

14 BY MR. HARRISON:

15 Q Okay, that's the end of that clip. So Corporal Kelly
16 radioed to you, asked you a question, The black male that was
17 holding down your 10-15, did you get his 43. Is that what he
18 said?

19 A That's what it sounded like, yes.

20 Q Okay. 10-15 would be the prisoner, correct?

21 A Arrest.

22 Q The person that had been arrested.

23 A Well, we use 10-15 as arrest.

24 Q And so if he's referring to your 10-15, that's not,
25 that would be not the actual arrest, they would be referring to

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1 the person that was arrested, correct?

2 A Person who was arrested or is in custody.

3 Q Okay. And 43, that means get the information?

4 A 43 is information.

5 Q Okay. And at no point did you correct or say
6 anything to Corporal Kelly that he wasn't under arrest or
7 anything along those lines; is that correct?

8 A No, sir.

9 Q And to your knowledge, from shortly from when you
10 arrived on scene until Mr. Crawford left to the hospital, he
11 was in handcuffs; is that correct?

12 A Yes, sir.

13 Q As far as when he was actually handcuffed, whether
14 it's in the ambulance or at the hospital, you don't know that;
15 is that correct?

16 A Correct.

17 MR. HARRISON: I have nothing further.

18 THE COURT: Any redirect?

19 MR. FRANZEN: Very brief, your Honor.

20 REDIRECT EXAMINATION

21 BY MR. FRANZEN:

22 Q Did you ever place Mr. Crawford under arrest that
23 night?

24 A No.

25 Q Did you ever tell him he was under arrest?

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1 A No.

2 Q Did you ever tell anyone else that he was under
3 arrest?

4 A No.

5 Q Did you ever discuss actually charging him with
6 anything that night, to Mr. Crawford?

7 A No.

8 Q Did anyone else ever communicate with you that they
9 considered him to be under arrest that night?

10 A No.

11 Q As far as the 10-codes or any other short terms that
12 you guys use when you're out in the field as law enforcement,
13 is there any separate distinct code for somebody who is a
14 suspect or potential suspect that is not under arrest but is
15 simply being detained?

16 A No.

17 Q Okay, and I think you explained that you then
18 therefore use that 10-15 term interchangeably sometimes to
19 discuss someone that's under arrest or somebody that's just
20 simply being detained; is that accurate?

21 A Yes.

22 MR. FRANZEN: No other questions, your Honor.

23 THE COURT: Recross?

24 //

25 //

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RECROSS-EXAMINATION

2 BY MR. HARRISON:

3 Q So you're telling me that whether somebody is being
4 detained or under arrest, those both are, both mean 10-15; is
5 that correct?

6 | A Yes.

Q But you said on the video, though, He's not 10-15?

8 A Yes,

9 Q So he wasn't even being detained, is that what you're
10 saying was happening?

11 A That's not what I'm saying.

12 Q What would be the purpose of saying he's not 10-15 if
13 10-15 meant something, if it only meant arrest?

14 A Depends on the context of the conversation.

15 Q So if you take somebody in for a temporary type
16 detention, you call it in as a 10-15?

17 A No, sir.

18 Q So you wouldn't refer to it as a 10-15 unless it's an
19 arrest, correct?

20 A No, sir, it depends on the circumstances and the
21 context of the conversation and who you're having the
22 conversation with.

23 MR. HARRISON: Can I have just one moment?

24 THE COURT: Yes, sir.

25 MR. HARRISON: That's all I have.

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1 THE COURT: May this witness be excused?

2 MR. FRANZEN: Yes, your Honor.

3 THE COURT: Thank you, sir, for being here. Are you
4 all ready to proceed, or does anyone need a quick break?

5 MR. FRANZEN: I'm fine. I defer to court personnel.

6 THE CLERK: I'm fine.

7 MR. HARRISON: I'm okay.

8 THE COURT: Okay, let's keep going.

9 MR. FRANZEN: Okay, and my next two should, at least
10 for my part, should be fairly quick. State would call Sergeant
11 Kelly now.

12 **SERGEANT MICHAEL KELLY**

13 was called as a witness by the State; and, having been
14 duly sworn, testified as follows:

15 **DIRECT EXAMINATION**

16 BY MR. FRANZEN:

17 Q Good day, sir. Could you please state your full name
18 spell your last name?

19 A My name is Sergeant Michael Jordan Calkins Kelly,
20 K-e-l-l-y.

21 Q And how are you employed, sir?

22 A With the Palmetto Police Department.

23 Q Are you a law enforcement officer there?

24 A Yes, sir.

25 Q How long have you been a law enforcement officer with

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1 Palmetto?

2 A About 16 years.

3 Q Do you have any other law enforcement experience
4 outside of Palmetto?

5 A Four and a half years with Florida Department of
6 Corrections, and about 30 days with the Bradenton Police
7 Department.

8 Q Okay. Were you employed and working as a law
9 enforcement officer in the early morning hours of April 1,
10 2015?

11 A Yes, sir, I was.

12 Q And what was your rank and duty at that time?

13 A I was a corporal at the time.

14 Q And did you have the opportunity to respond to a
15 scene of a, what was being reported as a crash, possible
16 traffic homicide?

17 A I did, sir.

18 Q And was that something that you got dispatched to
19 over the radio?

20 A Actually I believe I was standing in Dispatch when
21 the call came in, and at that time I responded from the
22 station.

23 Q Okay. As far as when you arrived on scene, were you
24 first, second, third, 20th?

25 A I was second in.

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1 Q Okay. And who would have been first then?

2 A Officer Kris Rossman.

3 Q How long do you think you arrived after Kris Rossman
4 approximately?

5 A 20 seconds.

6 Q Okay. What did you first do and what did you first
7 observe when you arrived on scene?

8 A I arrived on scene, got out of my vehicle, and I
9 could see a older Hispanic man waving me, for me to come to
10 him.

11 Q And did you follow those directions?

12 A I did.

13 Q And where was he directing you to, what did you see?

14 A He was directing me to a gentleman that I believe was
15 part of this, maybe the driver of the vehicle that was crashed.

16 Q Just from basically context, that's what you were
17 guessing?

18 A Yes. The older gentleman, there was a language
19 barrier, so he was doing a lot of pointing and it was through
20 broken English that I got the idea that the gentleman he was
21 directing me to was the driver.

22 Q Okay, and where did you first see this gentleman he
23 was directing you to?

24 A He was south of the crashed vehicle.

25 Q Was there anyone else around this person?

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1 A An African-American couple and a Hispanic man.

2 Q What was the position or demeanor of this person that

3 he directed you to?

4 A He was on the ground and appeared to be injured.

5 Q Okay. Did it appear if anybody was like keeping him

6 there or detaining him at all or anything like that?

7 A No, he was compliant. He was just there on the

8 ground.

9 Q With these other people around him?

10 A Yes.

11 Q Did you go up and have a conversation with any of

12 those people at that time?

13 A Not very much. Like I said, I got the idea that this

14 gentleman may be the driver of this crashed vehicle. I placed

15 him into handcuffs, I tried to help him walk, I was trying to

16 get him to my patrol car, but he was too, I felt like he had a

17 leg injury. And I took him to a privacy fence and I sat him

18 down near that privacy fence.

19 And the black gentleman, I believe it was

20 Mr. Johnson, I said, Mr. Johnson, don't let him go anywhere. I

21 think my words were, Would you watch him, please.

22 Q And he was placed into handcuffs at that point?

23 A That's correct.

24 Q About how long had you been on scene by the time

25 you'd done this?

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1 A Oh, probably, I'd say less than two minutes.

2 Q Okay. And the location where you first encountered
3 him, would have placed him in handcuffs and started walking,
4 about how far approximately would that have been from where the
5 vehicle in question that you were suspecting him of being the
6 driver of?

7 A I would say about 60 feet.

8 Q 60 feet? Okay. At some point after you sit him
9 down, you had one of the civilians looking after him, what were
10 you going to do?

11 A About the time I sat the gentleman down, I could hear
12 Officer Rossman saying Kelly, Kelly, and I didn't know what was
13 going on, so I went to -- and that's why I put the gentleman
14 down, because I had -- one, he seemed injured, didn't seem like
15 he could go very far; number two, I had Officer Rossman calling
16 for me. I didn't know what was Rossman's issue, so I went to
17 Rossman.

18 Q What did you determine the issue was once you got
19 over there?

20 A Two injured people.

21 Q Okay, among the wreckage?

22 A Yes.

23 Q At some point that evening did you interview this,
24 you mentioned a Johnson and I think a Poole. Did you talk to
25 those people?

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1 A Yes, I did.

2 Q Did they tell you anything about the defendant's
3 actions or anything he did or said prior to you arriving on
4 scene?

5 A They did.

6 Q What did they tell you?

7 MR. HARRISON: Objection, Judge, hearsay, that's not
8 explaining what happened here dealing with the handcuff
9 afterwards, and if they're trying to rely upon what those
10 people said at this hearing, it's hearsay.

11 MR. FRANZEN: Again, it's to the effect on the
12 listener, why are they detaining him for the amount of time
13 they are through the night.

14 THE COURT: Overruled.

15 BY MR. FRANZEN:

16 Q So go ahead, did they tell you anything about what he
17 did or said prior to your arrival?

18 A Yes, sir.

19 Q What did they tell you?

20 A They said they were proceeding southbound on 41, they
21 were en route to Tropicana, Ms Poole was driving, Mr. Johnson
22 was a passenger.

23 MR. HARRISON: Judge, just -- I just want to give the
24 Court -- I've got a standing objection, but they ought to read
25 Bowers, because the State's going totally on hearsay. It's why

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1 they acted, but if they're trying to rely upon what those
2 officers did to justify the detention, they can't do it. I
3 believe under the Bowers case, it's hearsay. I mean, so
4 it's -- Second DCA case, 23 So.3d 704 [sic], and the Florida
5 Supreme Court case is 87 So.3d 704.

6 And what the Bowers --

7 THE COURT: Judge Fazzone, right?

8 MR. HARRISON: Is that Lee County? No, this is not in
9 the packet, that's why I'm -- this is just, I have it here in
10 case we ever get into it.

11 THE COURT: Judge Fulmer of the Second.

12 MR. HARRISON: But basically what the Bowers was, you
13 know, it was -- the State said we can rely on what the other
14 officer said, fellow officer rule, and they said no, it's
15 hearsay, and if they're trying to rely on what the other
16 officers said or what somebody else said to justify their
17 actions, it's hearsay. So it's one thing to explain their
18 actions, but if ultimately that's the basis for the detention,
19 it's hearsay.

20 And what also makes it more problematic, it's hearsay
21 from a witness who has no-showed after being served for two
22 depositions.

23 MR. FRANZEN: And your Honor, this has to do with
24 fellow officer rule, this case.

25 MR. HARRISON: Those are your copies.

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1 MR. FRANZEN: Thank you.

2 MR. HARRISON: I agree, because what happened was the
3 stop was made by Officer A, and Officer B testified at the
4 hearing, and under fellow officer rule, the first officer can
5 rely on what the other officer said. But since the first
6 officer wasn't actually -- A wasn't actually at the hearing to
7 try to justify the stop, the arresting officer couldn't say
8 what he heard from the other officer in dealing with the bad
9 driving pattern.

10 Same thing we have here, if these officers are at
11 this hearing trying to justify detention based upon what
12 somebody else said, it's hearsay.

13 MR. FRANZEN: These cases don't apply to this
14 scenario. They're talking about fellow officer rule in a
15 scenario where they're having a motion hearing where apparently
16 the State tried to have one officer that only knew one part of
17 it be able to testify to the entirety of the scenario that was
18 actually observed by law enforcement and the justification for
19 the stop and the seizure that they did in that. They said no,
20 you can't, just because it went to core material elements, you
21 can't just rely on fellow officer rule to get hearsay in.

22 A, this isn't fellow officer testimony, this is
23 testimony from civilian witnesses, so this doesn't apply.

24 And two, it doesn't matter whether it's, as far as
25 what I'm arguing, it doesn't matter whether it actually winds

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1 up being true after investigation or not, it's, This is the
2 situation they're in, this is the information I'm hearing, and
3 so this is why we're reacting the way we are reacting.

4 Your Honor can make the determination whether that
5 was valid or not or whether the detention was too long or long
6 enough or whatever, as far as our arguments go, but that it's
7 just to why they're reacting, not whether it's actually true
8 that that happened or not.

9 THE COURT: Why is this not the state of mind of the
10 officer, Mr. Harrison?

11 MR. HARRISON: If it's necessary to the state of the
12 mind of the officer, is the officer in good faith, that's all
13 fine and dandy. But if they're sitting there trying to claim
14 that there was some type of fleeing going on or some other type
15 of crime, which there wasn't, then they need to have testimony
16 on here.

17 So they're trying to justify keeping my client in
18 handcuffs for an hour based upon no witnesses here at the
19 hearing. That's the whole core motion, issue that we've been
20 raising on this stop, was this a valid detention. And they're
21 trying to validate this detention a hundred percent on hearsay.

22 THE COURT: Okay, I'm going to overrule the
23 objection. You may proceed, Mr. Franzen.

24 BY MR. FRANZEN:

25 Q Okay. So as far as what they told you, not

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1 necessarily about exactly how the crash occurred, but from,
2 okay, he's crashed, do they tell you anything about what his
3 behavior or actions were once the crash has occurred?

4 A Yes, sir.

5 Q What did they tell you?

6 A They parked their vehicle near the corner of SR 55
7 and 7th Street after the crash occurred. At that time they get
8 out of their vehicle to render aid. And at that time they see
9 Mr. Crawford either walking briskly or running toward them.

10 Q Okay.

11 A At that time they and another gentleman detained Mr.
12 Crawford. They feel like he's trying to flee the area.

13 Q That's what they told you?

14 A Yes.

15 Q Okay. Thank you. Did you ever go back to Mr.
16 Crawford and actually place him in the car, or did somebody
17 else do that?

18 A I did not do that.

19 Q Okay.

20 A After I left Mr. Crawford, after I went to render aid
21 to the victims, I did not have any -- I believe I saw him being
22 led away. I did not have any verbal interaction with him after
23 that.

24 Q Okay. So did you ever tell him he was under arrest?

25 A No, sir.

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1 Q Did you ever tell any other law enforcement or anyone
2 else that he had been placed under arrest?

3 A No, sir.

4 Q Did you ever charge him with any crimes?

5 A No, sir.

6 Q Did you ever tell anybody that he was being charged
7 with any crimes?

8 A No, sir.

9 Q Did you ever hear any other law enforcement telling
10 him or anyone else that he'd been charged with a crime that
11 evening?

12 A No, sir.

13 MR. FRANZEN: No further questions at this time.

14 THE COURT: Mr. Harrison?

CROSS-EXAMINATION

16 BY MR. HARRISON:

17 Q So you went back later and talked with Mr. Johnson or
18 the witnesses that were with my client when you first contact
19 him; is that correct?

20 A I believe so.

21 Q Because I believe, if I understood your testimony,
22 your initial contact, you really weren't understanding what was
23 going on and there was some language barriers: is that correct?

24 A That is correct, sir.

Q And at that point you'd handcuffed Mr. Crawford and

1 then you heard Corporal -- excuse me, you heard Officer Rossman
2 call out to you; is that correct?

3 A That is correct, sir.

4 Q And Officer Rossman at that point then called out and
5 mentioned to you that there were bodies or people that were in
6 the debris field; is that correct?

7 A I don't think he told me that. Once I got up to
8 Officer Rossman it was just, from what I was seeing, I could
9 see two severely injured persons.

10 Q Okay. At the time when you went over to where my
11 client was, you didn't know about other people being injured;
12 is that correct?

13 A That is correct.

14 Q So at that point it appeared to be a one-car crash,
15 as far as you knew, that he was the only one that was injured,
16 correct?

17 A That is correct, sir.

18 Q And when Officer Rossman called out to you and you
19 went over to Officer Rossman to the debris field, you saw the
20 bodies and started trying to do CPR?

21 A Yes, sir, correct.

22 Q And then some point later on you had an opportunity
23 to talk to Mr. Johnson and get his story, correct?

24 A That is correct, sir.

25 Q So at the time that Mr. Crawford was initially

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1 handcuffed, you agree then you had not heard what Mr. Johnson
2 was telling you or the fact that anybody was injured or killed
3 in the crash, correct, other than my client?

4 A That's correct. I don't recall having time to
5 interview them, Ms Poole or Mr. Johnson prior to that.

6 Q Did you ever pat down my client for weapons?

7 A I don't recall.

8 Q During your contact with my client was he anything
9 other than cooperative?

10 A No, he was very cooperative.

11 Q To your knowledge was he anything, was he ever
12 uncooperative with any police officer?

13 A I can only talk for myself, he was cooperative with
14 myself.

15 Q Okay. Did he offer any type of resistance to you?

16 A No, sir.

17 Q Are you aware of him offering any type of resistance
18 to any law enforcement officer that night?

19 A I didn't hear of any of that.

20 Q Did Mr. Crawford do anything threatening to you?

21 A No, sir.

22 Q Were you aware of him doing anything threatening to
23 any police officer that night?

24 A No, sir.

25 Q And you originally wanted to take Mr. Crawford to

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1 your patrol car; is that correct?

2 A That is correct.

3 Q But he was too injured, correct?

4 A That is correct.

5 Q The crash scene at that time was pretty chaotic?

6 A That is correct, sir.

7 Q It was really highly charged emotionally, would that
8 be a fair --

9 A That's fair, sir.

10 Q There were a lot of screaming, yelling, crying, all
11 that going on?

12 A That is correct.

13 Q The family members that were there, they were
14 agitated with Mr. Crawford; is that correct?

15 A Some were agitated, some were grief stricken. There
16 was a mixture of both.

17 Q Do you have anything to believe that Mr. Crawford was
18 armed, armed or dangerous at any time?

19 A No, sir..

20 Q What's 10-15?

21 A That's, that means arrest in radio code.

22 Q And an arrest and detention are two different
23 creatures, would you agree?

24 A I would agree.

25 Q So if you are temporarily detaining somebody, you

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1 wouldn't call that a 10-15, but if somebody is actually
2 arrested you call it a 10-15?

3 A That is correct.

4 Q Did you hear anybody that night refer to Mr. Crawford
5 as being arrested or refer to him as a 10-15?

6 A No, sir.

7 Q Do you recall if you ever used that phrase?

8 A I can tell you I didn't use that phrase.

9 Q You can tell us that you did not or --

10 A I did not, sir.

11 Q I want to play an audio file for you.

12 MR. HARRISON: May I approach the witness?

13 THE COURT: You may.

14 BY MR. HARRISON:

15 Q This is part of State's A, excuse me, Defense Exhibit
16 A. And it's a file that's got the letters CD end to it.

17 It starts with 302 to 315. If you hear 302 to 315
18 what does that mean to you?

19 A That would be somebody calling me or me calling
20 somebody else.

21 Q Okay, this was 302, would that have been you that
22 night?

23 A Correct.

24 Q And 315, Rossman that night?

25 A I don't recall. There's a possibility it would be.

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1 Q If -- I could pull out reports, but if Officer
2 Rossman said he was 315?

3 A I would agree with you.

4 Q Okay. I believe it starts with 302 to 315, but I'll
5 let you listen to this and if you can tell me if this is your
6 voice and if this refreshes.

7 A Okay.

8 (AUDIO PLAYED)

9 302 to 315.

10 (AUDIO PAUSED)

11 BY MR. HARRISON:

12 Q Is that your voice?

13 (AUDIO RESUMED)

14 *The black male that was holding down the 10-15, did*
15 *you get his 43?*

16 *(Unintelligible)?*

17 *10-4. What about the other (unintelligible).*

18 (AUDIO PAUSED)

19 THE WITNESS: That's Rossman. So when it says the very
20 brief transmissions? I believe it's me.

21 BY MR. HARRISON:

22 Q So when it said the black male that was holding down
23 the 10-15, who said that?

24 A Sounds like Officer Rossman.

25 MR. HARRISON: Give me one second, your Honor.

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1 That's all I have.
2 THE COURT: Redirect?
3 MR. FRANZEN: Nothing else, your Honor.
4 THE COURT: May this witness be excused?
5 MR. FRANZEN: Yes, your Honor.
6 THE COURT: Sir, you're free to go.
7 THE WITNESS: Thank you, sir.
8 MR. FRANZEN: I have one other witness that should be
9 pretty quick.
10 THE COURT: Call that witness, please.
11 MR. FRANZEN: State would call Corporal Metzger,
12 please.
13 **CORPORAL CHRIS METZGER**
14 was called as a witness by the State; and, having been
15 duly sworn, testified as follows:
16 **DIRECT EXAMINATION**
17 BY MR. FRANZEN:
18 Q Almost good afternoon, sir. Would you please state
19 your full name, spell your last name?
20 A Christopher Anthony Metzger, M-e-t-z-g-e-r.
21 Q How are you employed?
22 A I work for the Palmetto Police Department.
23 Q As a law enforcement officer?
24 A Yes, sir.
25 Q How long have you been a law enforcement officer with

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1 Palmetto Police Department?

2 A I just started my 16th year.

3 Q Any other law enforcement experience outside of the
4 Police Department?

5 A No, sir.

6 Q Going back to April 1, 2015, and the weeks that
7 followed it, were you working as a corporal with the Palmetto
8 Police Department?

9 A Yes, sir.

10 Q Did you have the opportunity to become involved in a
11 traffic homicide where the suspect's name was Christian
12 Crawford?

13 A Yes, sir.

14 Q Did you respond to the traffic crash scene those
15 early morning hours of April 1st?

16 A Yes, sir.

17 Q When you got there, what was the status of Mr.
18 Crawford, as far as what was going on with him?

19 A I just remember as I walked into the scene and
20 started talking to everybody that he was -- he was in the back
21 of the car and then he was being taken over to an ambulance.

22 Q Okay, so when you got there is when he was being
23 taken over to the ambulance, presumably to have the blood drawn
24 and everything else?

25 A At that time I didn't know, but yes.

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1 Q Did you ever have any personal interaction with Mr.
2 Crawford that night?

3 A No, sir.

4 Q The time you spent there that night, did you, either
5 yourself or did you tell anybody to arrest Mr. Crawford?

6 A No, sir.

7 Q To your knowledge did you or any other law
8 enforcement on scene charge him with any crimes or say they
9 were charging him with any crimes?

10 A Not that night, no.

11 Q Did any other law enforcement ever tell you that
12 night that he was ever placed under arrest that evening?

13 A Honestly, I don't remember. I know there was a lot
14 going on, and I kind of was dealing with the other part of the
15 crash that occurred.

16 Q Okay. At some point as part of your investigation on
17 a later date did you interview EMTs or paramedics that were
18 present that evening?

19 A Yes, sir.

20 Q About how long after the crash occurred do you think
21 you did that?

22 A I don't know the exact dates on the affidavits, but
23 it wasn't -- I know the next night I worked, and it was
24 probably maybe three or four days later possibly.

25 Q Okay. So several days after this, not at the scene?

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1 A No, sir.

2 Q Okay. And just in general, not specific what their
3 testimony was, in general what were you talking to them for,
4 what were you asking them about?

5 A Basically what their observations were, what happened
6 in their dealings with Mr. Crawford.

7 Q So specifically to Mr. Crawford?

8 A Yes.

9 Q So what they either heard him say or what they
10 observed about his person?

11 A That's correct.

12 Q Did you, did anybody, as far as paramedics or any
13 personnel associated with EMS or anybody like that, provide you
14 with any reports dealing with any of those observations or
15 treatments?

16 A No, sir.

17 Q Did anybody provide you with any paperwork whatsoever
18 dealing with that?

19 A No, sir.

20 Q Did you ask for any reports or paperwork dealing with
21 any of that?

22 A No, sir.

23 Q Your interaction with these EMTs who were, did they
24 all tell you they were personally present that night, correct?

25 A Yes, sir.

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1 Q And it was, was it, was your interaction with those
2 EMTs limited to simple verbal questioning and answering?

3 A Yes, sir.

4 MR. FRANZEN: No further questions.

5 THE COURT: Mr. Harrison?

6 CROSS-EXAMINATION

7 BY MR. HARRISON:

8 Q You would agree that before speaking with the
9 paramedics you did not obtain or attempt to obtain my client's
10 permission to speak with them?

11 A No, I never did. No, sir.

12 MR. HARRISON: I have no questions in regards to --
13 actually, this is within the scope of what was happening. I
14 take that back.

15 BY MR. HARRISON:

16 Q When you were at the scene, did you hear people
17 referring to Mr. Crawford that he was 10-15?

18 A I don't remember that exact term. I know that there
19 was issues like after the crash that he, you know, there was
20 speculation that he -- if I can say that he may have taken off
21 and that he was detained. But that's all the information that
22 I had been given.

23 Q We heard a audio clip here earlier and we can play it
24 back to you if you need it, but Officer Rossman identified it
25 as a conversation that he thought was between, I think he

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1 identified four officers that he thought were there, Officer
2 Rossman, Sergeant Martinez, yourself, and the police chief.
3 And this would have taken place before, right before Mr.
4 Crawford would have been transported to the hospital. Do you
5 remember some type of conversation along those lines?

6 A No, I don't, because at that point, the time I was
7 dealing with the crash I had my radio kind of off and on, so I
8 was dealing more with like having the scene protected and
9 gathering that type of evidence.

10 Q Do you remember a conversation where there was a
11 concern saying I keep hearing them say he's 10-15, and there
12 was a concern that if he was arrested that speedy trial could
13 start running. Do you remember anything along those lines?

14 A No, sir, I don't.

15 MR. HARRISON: That's all I have.

16 MR. FRANZEN: No further questions.

17 THE COURT: May this officer be excused?

18 MR. FRANZEN: Yes, your Honor.

19 THE COURT: Thank you very much, Corporal, free to
20 go.

21 MR. FRANZEN: State rests, your Honor.

22 THE COURT: Mr. Harrison, do you have any evidence to
23 present?

24 MR. HARRISON: Yes.

25 THE COURT: Can you give me a ballpark as to how long

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1 that evidence is going to be? I'm just asking should we take a
2 break right this second, or should we keep going.

3 MR. HARRISON: It's not going to be, hopefully it's
4 not going to be real long. So I'm hoping we can wrap things up
5 here by 12:30 and have time to have argument before --

6 THE COURT: Then what we'll do is, we'll take the
7 evidence, we'll take a few minute break, give you a chance to
8 review your notes, and do argument. Does that work for
9 everyone?

10 MR. FRANZEN: That's fine, your Honor.

11 THE COURT: Ms Early?

12 THE CLERK: Yes.

13 MR. HARRISON: I would call Randi Crawford. Ms
14 Crawford. No relation, but just to confuse matters.

15 **RANDI CRAWFORD**

16 was called as a witness by the Defense; and, having been
17 duly sworn, testified as follows:

18 **DIRECT EXAMINATION**

19 BY MR. HARRISON:

20 Q Could you please state your name?

21 A Randi Crawford.

22 Q So the record's clear, you're no relationship to
23 Christian Crawford, correct?

24 A It would only be on my husband's side, so I don't
25 think so.

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1 Q Okay. Where do you work?
2 A Palmetto Police Department.
3 Q Do you work in the Dispatch?
4 A Yes, sir.
5 Q We heard some Dispatch radio back from April 1, 2015.
6 Would that have been you?
7 A Yes, sir.
8 Q So you were on duty that night?
9 A Yes, sir.
10 Q Part of your duty is a CAD Report or CAD Event Report
11 generated?
12 A Yes.
13 Q So when things are happening, certain events you
14 would input into the computer; is that correct?
15 A Yes.
16 Q And that ultimately makes it to CAD Report?
17 A Yes.
18 MR. HARRISON: I think, if the State doesn't have any
19 objection, if I could have this marked as Defendant's Exhibit
20 B?
21 MR. FRANZEN: No objection to being admitted, your
22 Honor.
23 THE COURT: Defendant's Exhibit B as in Bravo will be
24 admitted.
25 MR. HARRISON: That's a copy for you, and I'll give a

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1 copy to the witness so we all have a copy.

2 BY MR. HARRISON:

3 Q So do you recognize this two-page report?

4 A Yes.

5 Q Is this dealing with some of the activities that took
6 place back on that early morning of April 1, 2015?

7 A Yes.

8 Q So the first page it refers to responding units; is
9 that correct?

10 A Correct.

11 Q So when we look at those particular units, there's
12 times related to those units. And so received, I guess they
13 all have the same time, when we see 02:34:00, that would mean
14 the initial call came in at 2:34 in the morning?

15 A Yeah.

16 Q So it would be normal that that time as received
17 would be associated to every single unit, correct?

18 A Correct.

19 Q Then at various times you would dispatch out units to
20 the scene; is that correct?

21 A Yes.

22 Q So when we look in the next column, like we see under
23 101 it says dispatched at 02:52:26, that would be Unit 101 was
24 dispatched at 2:52 and 26 seconds; is that correct?

25 A Yes.

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1 Q And then arrived, there's a time. That tells us what
2 time that unit should have arrived on scene?

3 A Yes.

4 Q And then cleared would have been when they, they're
5 done with it, correct?

6 A I wasn't there for the clear, so possibly, yes.

7 Q Well, but clearance, that's what that means, correct?

8 A Yes.

9 Q So what time do you go off duty?

10 A 6 a.m.

11 Q So everything that was entered before 6 a.m. would
12 have been something you did?

13 A Yes, sir.

14 Q And everything that would have happened after 6 a.m.
15 would have been by --

16 A Maria Sanchez.

17 Q Okay. Let's go to the second page. There's a
18 narrative of events. So if we, I'm not going to go through all
19 of these, but if we want to start on all of these, on the first
20 line it says April 1st at 2:36:48, and it says 810 RDF. What
21 is that?

22 A A license plate number.

23 Q And you would have put that license plate number in;
24 is that correct?

25 A Correct.

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1 Q So somebody would have given that information to you?

2 A Yes.

3 Q You put the time in, or is that automatically
4 generated by the computer?

5 A It's generated by the computer.

6 Q The information dealing, coming in here comes from
7 multiple sources; is that correct?

8 A Correct.

9 Q Because I know we have gone through with some of the,
10 dealing with the audio, and some of this would match up to the
11 audio. So information that comes between you and an officer
12 over the regular Dispatch audio could make it into this event
13 narrative; is that correct?

14 A Correct.

15 Q There's also you have telephone calls; is that
16 correct?

17 A Yes, sir.

18 Q And so information that comes in through a telephone
19 call can make it on to this screen; is that correct?

20 A Yes.

21 Q Then we show at 2:37:20, white male, short hair, gray
22 shirt and jeans. So that's a description that somebody gave to
23 you?

24 A Yes.

25 Q Then we show 10-39 to EMS, and there is actually a

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1 10-code for Palmetto Police Department; is that correct?

2 A Yes.

3 Q For the record, I've got an extra copy, I'll put this
4 in as Defense Exhibit C; is that all right?

5 MR. FRANZEN: That's fine, no objection.

6 MR. HARRISON: Do you need to see this or do you have
7 it all memorized?

8 A No, I know.

9 THE COURT: Defense C will be received into evidence.
10 (DEFENDANT'S EXHIBIT C WAS RECEIVED.)

11 BY MR. HARRISON:

12 Q All right. So we now know when we look at our little
13 cheat, so 10-39 is what?

14 A I made contact with EMS to respond.

15 Q Is that synonymous with Dispatch, or is that
16 something different?

17 A I'm sorry?

18 Q Is your code in here if you dispatch somebody?
19 Actually, it doesn't matter. So you contacted EMS at 2:39.
20 Then we have on the fourth line at 2:44:22, EMS 10-97. What
21 does that mean?

22 A EMS arrived.

23 Q And then WM 10-15. What does that refer to?

24 A White male has been arrested.

25 Q And that's at 2:44:22?

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1 A Yes, sir.

2 MR. HARRISON: That's all I have.

3 CROSS-EXAMINATION

4 BY MR. FRANZEN:

5 Q Do you frequently in your job have law enforcement
6 call in reporting that they've taken, they've detained somebody
7 for an investigatory stop, but maybe not have placed them under
8 arrest?

9 A Usually they use 10-12 if they're with someone.

10 Q What's 10-12 mean?

11 A That they're with someone.

12 Q It's visitors or officials present?

13 A Sounds about right.

14 Q To your personal experience, is 10-15 ever used by
15 law enforcement with each other just to have somebody detained
16 or in custody, that not necessarily that they're under arrest?

17 A No.

18 Q Okay. No further questions.

19 THE COURT: Redirect?

20 MR. HARRISON: No questions.

21 THE COURT: May this witness be excused?

22 MR. HARRISON: Yes.

23 MR. FRANZEN: Fine.

24 THE COURT: Okay, thank you, ma'am, you're free to
25 go.

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1 Mr. Harrison, if you can call your next witness,
2 please.

3 MR. HARRISON: Officer--

4 THE COURT: So you need -- the Bravo, Defendant's
5 Bravo.

6 **OFFICER ANGEL URUCHIMA**

7 was called as a witness by the Defense; and, having been
8 duly sworn, testified as follows:

9 **DIRECT EXAMINATION**

10 BY MR. HARRISON:

11 Q Could you please state your name, spell your last
12 name for the record?

13 A My first name is Angel, last name Uruchima,
14 U-r-u-c-h-i-m-a.

15 Q Officer, how are you employed?

16 A I work with the Palmetto Police Department.

17 Q Back on April 1, 2015, were you working that night?

18 A Yes, sir.

19 Q When we were looking at the CAD reports they talk
20 about Unit 317. Is that you?

21 A Yes, that was me.

22 Q Okay. So did you ultimately come out to the trailer
23 park or mobile home park?

24 A I must have passed by it, but I had no involvement
25 inside the crime scene.

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1 Q So were you sent to the hospital?
2 A Yes, sir.
3 Q Which hospital did you go to?
4 A Manatee Memorial Hospital.
5 Q And what did you do at the hospital?
6 A I sat outside the door of the defendant's room.
7 Q And what was your purpose of staying outside the
8 door?
9 A To keep an eye on him, make sure he doesn't leave.
10 Q Did you attempt to do any type of interview or any
11 investigation or were you just standing guard?
12 A Just standing guard, sir.
13 Q Do you recall if he, was he in a room the whole time,
14 or was he out for surgery, or do you remember anything?
15 A I remember that he was in the room.
16 Q Okay. That's all I have.
17 MR. FRANZEN: No questions.
18 THE COURT: May this officer be excused?
19 MR. HARRISON: Yes.
20 THE COURT: Thank you, you're free to go, sir.
21 What's next, Mr. Harrison?
22 MR. HARRISON: I've got Sergeant Martinez, but I want
23 to look at my notes because I think it may all be duplicative
24 and I may be able to skip it. Just let me look real quick.
25 I'm not going to call him.

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1 THE COURT: Do you have any other witnesses then?

2 MR. HARRISON: Let me see if Landis showed up, if
3 not, then I have no other witnesses.

4 Better you release him, because he worked midnights,
5 he's not going to like me. But apologize profusely for me.

6 I haven't seen the paramedic, but it's fine. We've
7 got everything I think in the record we need.

8 THE COURT: Who's this gentleman? Okay, is there any
9 further evidence, Mr. Harrison?

10 MR. HARRISON: No, your Honor.

11 MR. FRANZEN: Nothing else from the State, your
12 Honor.

13 THE COURT: So do you want 10 minutes to review your
14 notes to get ready for argument?

15 MR. HARRISON: Sure.

16 THE COURT: Is that going to be enough time for you
17 to get ready?

18 MR. FRANZEN: However you want to do it, your Honor,
19 I'll be ready.

20 MR. HARRISON: Okay, yeah, I can do that, because
21 we've got, I know we were supposed to stop at 1.

22 THE COURT: I'll give you 10 minutes.

23 MR. HARRISON: Okay.

24 (RECESS.)

25 THE COURT: Mr. Harrison, you're standing up, so I

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2 assume you want to go first.

2 MR. HARRISON: Sure, your Honor. I figured it was my
3 motion. But I know on some of them it's kind of muddy as to
4 who goes first. Unless the State wants to go first?

5 THE COURT: I don't care.

6 MR. HARRISON: Okay.

7 THE COURT: Mr. Franzen doesn't seem to care. You're
8 standing at the podium, so why don't you go first.

9 MR. HARRISON: Okay. Your Honor, I'll start with the
10 simpler one, dealing with the EMS. You've got the EMS statute,
11 and there are three statutes with identical language dealing
12 with the notice to get the record. Whether we're dealing with
13 EMS, doctors, or hospitals, they use the same language, just in
14 different chapters. But they require the same notice
15 requirement.

16 There's no question that the paramedics were
17 interviewed, there's no question they were interviewed without
18 the client's consent along those -- you know, permission.

19 From the questioning, it sounds like the State's
20 trying to make a distinction between well, we didn't actually
21 get the reports or get the documents, we just interviewed them.
22 And the case I gave you, the Buchanan decision, basically kind
23 of answers that question. Because it really didn't say if
24 we're going to talk to the doctors versus look at reports,
25 that's form over substance. In the Buchanan, the doctor was

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1 interviewed at the hospital, and based upon what they learned
2 from the doctor, the doctor -- or the trooper used that for the
3 reason to get the blood draw.

4 And Second District said no, they weren't allowed to
5 do that. There was no reports or anything along those lines.
6 Which it makes no sense to say you can't have the reports, but
7 we can tell you everything along those lines. It's treatment,
8 it's privileged, and if they want to have that information,
9 Corporal Metzger should have gone through the procedures and
10 notified my client. And so the State, you know, there's been
11 no efforts to comply with the statute. And if they had made a
12 good faith effort to comply, like they didn't know where my
13 client was, then they might get a second go round, but if
14 there's not a good faith effort, and in this case there's no
15 effort, they should not get a chance to go back and get it
16 again.

17 THE COURT: Maybe this is where I'm handcuffed
18 because I don't know as much about the case as the two of you.
19 But what's, what am I trying, what is actually being requested
20 to be suppressed here? Because I think I would draw a
21 distinction if it's hey, tell me your observations of the scene
22 and things like that, versus tell me what his blood pressure
23 was or what medicines he said he was on. I know there was the
24 one statement about possible marijuana, but what are we talking
25 about?

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1 MR. HARRISON: We're dealing with the statements that
2 they made, and as far as their impressions about dealing with
3 my client's condition or non-condition. And there's a conflict
4 between, one of the paramedics says my client looked
5 100 percent normal, everything's normal; another paramedic told
6 Metzger that something wasn't right based upon his impressions
7 in dealing with him. And of course those impressions, that
8 would come right into dealing with the privilege. So if they
9 want to get those type, that type of information, that would,
10 that would not be allowed unless they went through the proper
11 procedures and notified; it doesn't give us a chance to object.

12 THE COURT: Did you have other issues to argue on the
13 motion to suppress relative to EMS?

14 MR. HARRISON: It's just dealing with the
15 observations or statements they said that my client made, that
16 they're not allowed to obtain those from the paramedics without
17 talking to my client. Same thing, I don't think they should be
18 allowed to be eavesdropping, it doesn't change the character of
19 anything along those lines.

20 The statements made at the scene to law enforcement,
21 I think everything at the scene, Miranda wasn't advised; if
22 they're doing any type of crash investigation, falls within the
23 purview of that. I don't have any further argument, but that's
24 where, we never had a Miranda situation, they were only doing a
25 crash investigation, that was the only reason to have contact

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1 with him.

2 THE COURT: It might be easier -- would you rather do
3 all four of them or go one at a time?

4 MR. HARRISON: I don't care. That's all I'm really
5 talking about dealing with the statements. If the State would
6 rather address that, because those are the kind of the less
7 conflict, the other one is where I want to spend the bulk of my
8 time.

9 MR. FRANZEN: However you want to do it. I think the
10 motion for discharge speedy trial and the motion to suppress
11 the blood kind of intermingle a little bit, because it all has
12 to do with whether he was in custody or lawful custody or any
13 of that.

14 THE COURT: Well, let's finish this motion to
15 suppress EMS, why don't you make your argument.

16 MR. FRANZEN: Yes, your Honor. As I stated before,
17 he's asking to have the, I guess the testimony -- I don't
18 really know what's being suppressed, because usually it's like
19 hey, you guys got a warrant based on some information you
20 shouldn't have gotten and so we're suppressing stuff from that.
21 I don't know exactly what's asking to be suppressed, I guess
22 it's -- there's no evidence other than they went and talked to
23 them and got testimony that was obtained from this. So are we
24 asking to bar them from testifying at trial? And you can't
25 have your cake and eat it too. I don't want to hear, if this

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1 motion gets granted, that the Defense wants to call one of the
2 EMTs because they say they didn't see any signs of impairment,
3 but no, you can't call the ones that say they did see signs of
4 impairment. So I'm a little bit handcuffed, because I'm not
5 exactly sure what we're arguing to suppress or keep out or do
6 with it.

7 Ultimately though, whatever it is, I'd argue that
8 there's no basis for it because -- no, I think the Buchanan is
9 distinctual (sic), it's a completely different type of
10 scenario, and what it was used for and how the interview was
11 being conducted, it was being used in a warrant, et cetera, et
12 cetera, versus being used as the sole basis or sole source of
13 probable cause, which is clearly not the case here, nor is that
14 alleged.

15 And the statutes cited to in the defendant's motion,
16 specifically the 401.30, is all very specific having to do with
17 records. And interviews and questions about observations are
18 not records. Very specifically to the, any information
19 obtained from the EMTs or paramedics that night at the scene, I
20 think there's a very strong even public policy argument.
21 You're saying law enforcement can't talk to paramedics at the
22 scene to find out what's going on with a suspect or defendant
23 or whatever it is in the scenario. So they're not medical
24 doctors or medical professionals. So hey, I've got probable
25 cause to arrest this guy, he just committed a home invasion

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1 robbery or whatever it is, but hey, he's got a gunshot wound.
2 I can't talk to the paramedics to find out hey, does he need to
3 be transported to the hospital, is this a possible fatal wound,
4 because that would be a violation of his privacy rights. So
5 forget it, I'm transporting to the hospital because I need to
6 arrest him, and I don't know what's going on here. I mean,
7 there has to be allowed some sort of communication between
8 first responders, law enforcement, EMTs to figure out what's
9 going on so everybody can do the right thing at the scene.

10 They're trying to find out what's going on, what's
11 this guy's condition, what's going on, what do we have here.
12 And yes, is there anything that they may be obtaining that
13 might help a criminal case? Sure, possibly. But to say, no,
14 you can't talk to that, when I don't see any specific case law
15 or statute saying no, you can't do that, would be very much
16 flying in the face of a public policy issue.

17 Furthermore, usually when you're dealing with some
18 sort of privacy privilege or something, there has to be an
19 expectation of privacy surrounding it. As far as the
20 statements made at the scene that Defense is trying to suppress
21 or limine out or whatever this is, those were being made, based
22 on the testimony here today, they're with the presence of law
23 enforcement standing there. So there's not really any
24 expectation of privacy that this is only between him and his
25 medical treating, the treatment from medical personnel, as far

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1 as that goes. But ultimately, we're not talking about records,
2 we're talking about interviews.

3 So the State would object to the granting of that
4 motion.

5 THE COURT: Okay. Mr. Harrison, anything further?

6 MR. HARRISON: If I could, just to point out, you
7 know, it was, no records were given in Buchanan, it was
8 diagnostic information, and then they sought to cite that no
9 notice was given to under, at that time it was 395, which was
10 dealing with the doctor privilege information. The language
11 for the doctor privilege and the paramedic privileges are
12 identical; it's exact same procedure dealing with three
13 statutes. So dealing with any of the, you know, diagnostic
14 information, if the State wants to try to use any of that in
15 their case-in-chief, or have Dr. Goldberger rely upon that in
16 any type of interview, that would be improper because they
17 obtained that information without complying with proper notice
18 requirements of the statute.

19 MR. FRANZEN: And -- if you're done, Mr. Harrison?

20 MR. HARRISON: That's okay.

21 MR. FRANZEN: The only other thing I wanted to throw
22 out there was, apparently prior to even the arrest warrant
23 being issued in this case, as part of the investigatory
24 procedure there was a motion to and a notice to get, subpoena
25 the defendant's medical records from Manatee Memorial Hospital,

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1 which was granted, and medical records were all provided.
2 Typically EMS run reports are included in that. When I was
3 going through them apparently they weren't provided as part of
4 it, so it's separate, but clearly -- it wasn't your Honor, I
5 believe it was Judge Moreland at the time. But the Court ruled
6 it's something we could get. So even if it was something, even
7 if your Honor ruled well, you can't use them right now, I'm
8 assuming it's something that's easily cured by doing hey, we're
9 intending to subpoena his EMS run records, and then we get
10 them.

11 THE COURT: Well, here, and Mr. Harrison, correct me
12 if I'm wrong, the statute, the prohibition that you're relying
13 on is Section 401.30 Florida Statutes?

14 MR. HARRISON: Correct.

15 THE COURT: And is there another basis?

16 MR. HARRISON: Well, the 401.30 is the entire records
17 provision dealing with the medical records. And like whenever
18 the State, when the State wanted to get the hospital records
19 or, they didn't seek the paramedic records, but it's the exact
20 same statute, I think it's under 395 to get the hospital
21 records, so the cases that I cited you, none of those dealt
22 with the paramedic records, I agree. But the language in the
23 notice were identical. So whether if I want doctors records,
24 hospital reports, or paramedic records, they've got the exact
25 same procedures that if they want to get it they have to give

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1 notice for that.

2 And it's not uncommon that I get notice when I'm
3 doing a DUI case that the State wants to get the paramedic
4 records. I've had often where they have messed it up by
5 obtaining them without giving notice, and in Sarasota they have
6 learned the hard way, and if they want those records they
7 properly go through the notice situation. And so --

8 THE COURT: And I've done several of them; in fact,
9 one of them went up to the Second DCA on one of my rulings on
10 that.

11 I'm going to deny your motion without prejudice, and
12 let me give you my reasoning here. As I read Section 401.30,
13 the highlighted portion that you have, (4) talks about records
14 of emergency calls are confidential and exempt from the
15 provisions of Section 119.07(1). That is Florida's Public
16 Records law. We're not talking about Florida Public Records
17 law here. We're talking about, as best as I can tell from what
18 the two of you have been telling me, is the oral discussion
19 that occurred between the Palmetto Police Department officer
20 and the EMS folks several days later.

21 Now, I do have a concern, Mr. Franzen, that there is
22 a privacy right that does exist, but since I don't have the
23 specific statements that we're trying to suppress, in my mind I
24 am drawing a distinction between those statements that the EMS
25 personnel made just looking around the scene and things like

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1 that, versus conversations they might have had with Mr.
2 Crawford for the purposes of diagnosing and treating Mr.
3 Crawford. I can see that there's going to be a distinction. So
4 I'm going to allow Mr. Harrison to hone in on those particular
5 issues, but I'm not going to make a sweeping ruling saying any
6 conversation with EMS is suppressed, because I don't see what
7 precisely you're trying to suppress here, Mr. Harrison.

8 MR. HARRISON: Okay, but as far as dealing with what
9 EMS observed at the scene, I have no qualms with that, because
10 I don't think I could claim that that deals with that. But
11 depending on what happens with these other motions, we can come
12 back and I can be more specific in tying that all together with
13 other statutes, so that all ties in.

14 So if we want to go into the blood draw or the motion
15 for discharge, and those two are kind of, they're separate but
16 interrelated.

17 If my client was placed under arrest -- I think the
18 records, we have records to show that he, that he was at the
19 time -- then the Information was not timely filed and the
20 party's over at that point.

21 The, if I read a part here from the Devard case,
22 State versus Devard, 178 So.3d 41, Second District from 2015:
23 A person is taken into custody for the purpose of speedy trial
24 when he's arrested as a result of conduct or criminal episode
25 which gave rise to the crime charged. A formal arrest,

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1 complete with fingerprinting and formal charges, is not always
2 necessary to start the running of speedy trial. But something
3 more than an investigatory detention is required.

4 And of course that's how these tie together. And for
5 the purposes of speedy trial, there is no such thing as an
6 unarrest [sic].

7 And so that's where that conversation at the end of
8 the video, where, you know, where it makes things kind of
9 interesting. Because when we look, look at the official report
10 as to what was radioed in to Dispatch, and what was taken down
11 right then, we have in the CAD report -- I have way too many
12 pieces of paper sitting here on my desk -- that my client was,
13 it was a 10-15, and it was right off the bat. What is 10-15,
14 what was asked. And we heard a little bit of conflict between
15 one witness, but then all the other witnesses, 10-15 is an
16 arrest.

17 And so we know that it was called in at 2:42 -- no,
18 at 2:44 that my client was arrested. So that was 56 minutes
19 before the blood draw. We have the audio that was referred to
20 as a 10-15 between Corporal Kelly and Officer Rossman, where
21 there's no question my client was referred to as a 10-15, as
22 being a subject that had been dealing with arrest.

23 The record is not clear if it was Rossman or Kelly,
24 Officer Rossman said it was Kelly that was referring to my
25 client as 10-15, Kelly said no, that was Rossman said it was

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1 10-15; they both identified that those are their voices. I
2 don't know what to make of it, but it doesn't really matter, we
3 have the officer there referring to it as a 10-15.

4 The interesting thing when we went through, we have
5 this discussion, but all of a sudden they're realizing with
6 speedy trial and how it can't come in together, and that was at
7 an hour and 16 minutes into it. And I kind of transcribed a
8 little of this myself and then I gave up because it was like
9 going crazy. And again, this is not an official transcript,
10 you listened to the audio, but if this can help you, but this
11 is kind of what I got. Says:

12 Can I speak to you guys? Yes. I don't see any signs
13 of Signal 1, okay. We heard that, we're going to, and there's
14 something about with the blood draw, take him to the hospital.
15 And also somebody said he's not 10-15. And then that's when
16 they started talking about speedy trial, they said the minute
17 you handcuff him or charge him formally you start speedy trial.
18 See what I'm saying? So that's actually what they're
19 discussing right now, that was actually going to be my
20 question, because I keep hearing he's 10-15.

21 Apparently that was Officer Metzger, Metzger didn't
22 remember dealing with the conversation, but again, it doesn't
23 really matter. They keep saying that he's 10-15.

24 And then on recross Rossman tried to backpedal, and
25 it just makes absolutely no sense, he goes, oh, no, there's a

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1 difference between -- there's a 10-15 for investigations and a
2 10-15 for arrest. And Rossman's the only one who said that.
3 And I guess the polite way to say it is it's incredulous,
4 because if it didn't make a difference, if 10-15 could mean
5 either, why was he going out of his way all of a sudden to now
6 say he's not a 10-15, we're worried about everybody saying it's
7 a 10-15. But that goes along with the reason they're worried
8 about saying it's a 10-15, is because 10-15 means it's an
9 arrest. The dispatcher said, It was called in as an arrest.
10 The State said sometimes if somebody's just being detained do
11 you call it 10-15? No, that would be something different, a
12 10-15 is an arrest. And Kelly said 10-15 is an arrest. So we
13 have right here in these records, he was, according to the
14 Palmetto Police, they say he was arrested.

15 And so as far as I'm concerned, you know, the speedy
16 trial, the party's over.

17 Now, one thing you're saying, why did it take us so
18 long to get here, dealing with all this stuff dealing with the
19 10-15. If you recall, we had some discovery issues. And we
20 found out -- originally we didn't know where Rossman was, we
21 found out where he was, we deposed him in late July.
22 Apparently it never made it to Ms Vitale -- State Attorney knew
23 where he was, not saying she intentionally did it. But anyway,
24 we went down and deposed him.

25 At that deposition we found out about this audio

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1 disc, which should have been given to us last October. So we
2 didn't receive that until August or September. Same thing
3 dealing with the Dispatch and CAD reports, all of that stuff
4 came out late. If we'd known about all this stuff dealing with
5 10-15 we probably would have been here before you took the
6 bench in this division. But nevertheless, that's kind of how
7 we put that in the big picture.

8 Handcuffing, and this kind of goes through, the State
9 kind of has this kind of Catch-22, because dealing with this
10 handcuffing, there was no basis for this handcuffing, because
11 even if they thought that there was an issue, you got to take
12 the handcuffs off as soon as you know he's not a threat for
13 dealing with violence, he's being cooperative, compliant. I
14 gave you the Reynolds and all the cases that cited that. And
15 after the first two minutes in that video, the whole hour,
16 there's no question that my client was calm, polite,
17 cooperative, was not belligerent, wasn't offering any type of
18 threat or anything whatsoever. And he -- but he remains
19 handcuffed. You cannot keep somebody in handcuffs along those
20 lines unless we're sitting in here and dealing with an arrest.

21 And so the only thing that really kind of makes sense
22 was, okay, he was under arrest, but now he's been unarrest.
23 Then we go, kind of go through, but what was he being arrested
24 for? We heard several times throughout the video there is no
25 evidence of DUI, there's no evidence Signal 1. So he was ready

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1 to be transported to the hospital, and he needed to go to the
2 hospital for it, and it was for a lot more than stitches, but
3 nevertheless, they held him up from going to the hospital, not
4 for any type of leaving the scene or anything like that. They
5 held him up specifically for a blood draw. There was no
6 probable cause or reasonable suspicion that he was DUI. Yet
7 they continued to keep him from going to the hospital.

8 And we want to think about the whole Fourth Amendment
9 and talk about reasonable detentions, we're keeping a man from
10 going to the hospital so that we can get blood. And of course,
11 we got to wait another, more than a half hour, because we don't
12 have any blood kit. They're not telling him you're going to
13 have to sit here, we're going to hold off hospital treatment
14 for, you know, that much longer because everything's here
15 dealing with expired, and there's no reasonable suspicion for
16 that. So he's being detained for that. So that's where it all
17 comes down to dealing with detention. Because it's an illegal
18 detention, and I'm not, I've submitted all the cases here, if
19 it goes beyond scope or duration. So he's being handcuffed.

20 So number one, do they have reasonable suspicion at
21 the time that he was initially detained. Do they have a basis
22 to handcuff him, do they have a basis to continue to keep him
23 in handcuffs, or did they have a -- sorry, I'm getting --

24 THE COURT: Take your time.

25 MR. HARRISON: --a basis to continue to detain him.

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1 And they were not doing anything with him. They were not
2 investigating him, questioning him, or doing anything. He was
3 sitting in the back of a squad car, locked up. Now, at one
4 point they got up and they adjusted the handcuffs, about
5 halfway through.

6 So we go back and look at the Royer case that I gave,
7 and I, of course I started to look at it to kind of read
8 through the highlighted part, I guess the longest case I sent
9 you I didn't pre highlight; I thought I had, but I apologize.

10 The Royer case in the Supreme Court that I'm reading,
11 under headnotes eight and nine: It's the State's burden to
12 demonstrate that the seizure it seeks to justify on the basis
13 of a reasonable suspicion was sufficiently limited in scope and
14 duration to satisfy the conditions of an investigative seizure.

15 And so it's just -- and the statute which codifies
16 that Terry's no longer than reasonably necessary, I highlighted
17 that under the 901.151.

18 In Royer, they actually found there initially was
19 reasonable suspicion. He was at the gate at the airport, he'd
20 used a false name to buy a ticket, paid cash, it was one way,
21 so that was enough to draw a reasonable suspicion that maybe he
22 had been dealing with drugs.

23 So they moved him back to an area, in a stewardess
24 lounge, they described as some small room that they were in. He
25 was there no more than 15 minutes, and he wasn't handcuffed.

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1 And they said can we search your luggage, and Royer didn't say
2 anything, reached out and handed him his key.

3 The duration of that and the scope, how, they said
4 that escalated to more than what was the scope and duration,
5 and it was found to be illegal. Mr. Crawford was four times
6 longer than Royer. Mr. Crawford was handcuffed; Royer wasn't.
7 He wasn't tossed in the back of a room, he was in the back of a
8 squad car. So when we sit here talking about the
9 reasonableness, what would a reasonable person think along
10 those lines, are they arrested or are going to jail along those
11 lines.

12 And so when you have a consent, if there's been an
13 illegal detention, so if you find it was inappropriate to
14 handcuff him along those lines, State's going to have to show a
15 break in that. And so the detention needed to stop, he needed
16 to know that he had the right to refuse, that he didn't have
17 to, you know, to give it and he was free to go. Actually, he
18 wasn't free to go at this point because they didn't let him go
19 to the hospital, they handcuffed him along those lines.

20 And in fact they got several of the cases, and like
21 Faulkner, Second DCA case, the defendant was still, detention
22 was still going on at the time that the consent took place.
23 And that was, it was -- the detain (sic) was there as a matter
24 of law, and it's kind of interesting, in all those cases that
25 I've given you, because they're showing there wasn't a break,

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1 they're still dealing with the detainant, all of those cases, if
2 you look at who is the appellant, those were all the drivers,
3 those were all reversals because the State didn't show detainant,
4 because detention was going along all those lines. And that's
5 because the State has to show by clear and convincing evidence
6 that the detainant was there. So they're going to have to show
7 that it was totally proper to be handcuffed. And of course, I
8 think Reynolds said, as soon as they're showing there is no
9 weapons and he's being compliant, the handcuffs should go off.
10 Yet it continued along those lines.

11 So either we're in to Royer, that it went from
12 something more than a detention, that it's more into a defacto
13 arrest. If it's a defacto arrest or unlawful detention,
14 consent's gone. It's tainted.

15 Or, the only way to save the consent is to show that
16 he was lawfully arrested. But if he's lawfully arrested, with
17 our 10-15, the speedy's gone. So it's really, when you put
18 those two together, the only way for the State to try to
19 justify the search is to show the arrest, but if it's arrest
20 they lose on the speedy trial, and so they are truly in -- is
21 that a Hobson's Choice or no-win situation, I forget what it
22 is. But one or the other, either the blood is gone or the
23 speedy trial is gone. And in reality and in the facts of this
24 case, if the blood's gone or speedy trial discharge, it's the
25 same net result, because the State, suppressing the blood is

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1 not a dismissal of the charge, but the State in all reality
2 can't go forward without the blood. So that's kind of how it's
3 hand-in-hand.

4 THE COURT: Mr. Franzen?

5 MR. FRANZEN: Yes, your Honor, sounds like we're
6 dealing with both those motions then, to suppress the blood --

7 THE COURT: And the discharge.

8 MR. FRANZEN: Yes, your Honor, thank you. Obviously
9 the State objects and believes these motions should be denied,
10 your Honor. A lot's being made about this code 10-15, what it
11 exactly meant when it was uttered that night and who may have
12 uttered it. But there's a lot more going on just than if some
13 code that was uttered that may -- that could have meant
14 arrested or, according to the testimony we had here could have
15 meant in context just referring to the person that was in
16 custody, which when you listen to the audio and take that in
17 context with everything else that happened and was said and not
18 said that night, it sounds like former Officer Rossman was
19 fairly credible that no, there's no other code to refer to a
20 guy that's in custody. The dispatcher said sometimes they use
21 10-12, and 10-12 has to do with when there's like visitors,
22 like you have a ride-along with you or something. It doesn't
23 have to do with you got a suspect in custody, or it's an
24 investigatory stop with somebody in handcuffs or custody or
25 anything like that.

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1 But, focusing solely on this possibly one time
2 somebody saying 10-15 as far as referring to Mr. Crawford,
3 ignores everything else about that night. There is no other
4 testimony or evidence that even hints that anybody thought he
5 was under arrest or has suggested he was under arrest or even
6 hinted at what crime he would have been under arrest for, or
7 that this was turned into a defacto arrest. They repeatedly
8 say, and you hear it in the recordings throughout, and the
9 testimony, that we're still investigating this, we're still
10 trying to figure this out.

11 And does it take a while? Yeah. But you even hear
12 it almost like a half hour, about a half hour in, there's just
13 still three of them out there, where the testimony is there's
14 at least about 15 people out there, you hear them in the
15 background, they're screaming and crying. They've got the two
16 dead people, one of whom's pregnant and stuff that they're
17 trying to figure out what to do with. They're trying to figure
18 out what the story is. When they get on scene they're being
19 told that Mr. Crawford was trying to flee and run, so okay, we
20 can't let that happen because we need to figure out what's
21 going on here because if he takes off and let's say we have
22 evidence of a DUI or something else, or we need to identify
23 him, like with a showup, as a wheel witness or anything like
24 that, if he takes off, then we're not getting any of that, then
25 he's gone and all that evidence is gone.

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1 So since at least from the information that law
2 enforcement's being told that he's a flight risk, that's what
3 they have to act on. And being a flight risk isn't something
4 that just goes away, like oh, at this point he's probably okay
5 and not going anywhere.

6 Law enforcement didn't know necessarily the extent of
7 his injuries at that time, you can tell that by the way it's
8 being talked about, like you need some stitches, it might be
9 okay, blah, blah, blah; turns out to be worse maybe be later,
10 but there you go. No one ever states any charges that they
11 even thought they were charging him with that night. No one
12 ever tells him he's under arrest. No one ever says to anybody
13 else he's under arrest. In fact, outside of this 10-15,
14 whatever that may have meant, when anybody actually
15 specifically talks in detail about whether he's under arrest or
16 whether we should place him under arrest, the answer is always
17 an emphatic and very clear no. In fact, they're even saying, I
18 don't have evidence, enough evidence right now to charge him
19 with DUI. Like, once somebody at some point says, you know,
20 maybe leaving the scene, they're like no, don't do that. And
21 yeah, they're aware of the issue, as far as arresting somebody
22 and then unarresting and speedy trial and stuff, so they're
23 specifically discussing it.

24 All the discussions, everything we heard and all the
25 testimony today go pretty much right to the fact that no, they

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1 didn't arrest him, they never intended to arrest him that
2 night. They didn't have anything to arrest him for that. So
3 we go well, does it matter what they intend to do, this turned
4 into defacto arrest because it was too lengthy anyway, which
5 kind of falls into the motion to suppress the blood sample, was
6 this an unlawful detention that went on for too long. And I'd
7 argue no.

8 They have the information that he's possibly fleeing,
9 they have this horrible traffic homicide that for a while it's
10 just the three of them working. You hear somewhere between the
11 20 and 30-minute mark they're still even just finding where the
12 car even entered this area, they're saying yeah, we just found
13 out the broken fence line or something around that time.
14 Eventually more personnel shows up to help them kind of
15 investigate things. But this is taking a while to figure out
16 just even exactly what happened.

17 And then, in fact -- let's see, where was it. It
18 was, I think it's right about a half hour into the whole
19 recording, so, you know, less -- so the defendant would have
20 been in custody less than half an hour, or in detention for
21 less than half an hour at this point, when there's the
22 discussion he gets consent to, for a blood draw. And in fact,
23 the way it happens isn't like hey, we're going to take your
24 blood and let's get consent and blah, blah, blah. You heard
25 the audio on what the testimony was, it sounded like he's

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1 basically, hey, take my blood; he's almost volunteering it
2 before there's any kind of serious discussion about it.

3 So they're going to try to do that right there at
4 about the half hour mark into this whole thing, and then
5 unfortunately, for whatever fluke reason, you know, whatever it
6 was, they all have expired blood kits there. Don't know why.
7 And so they have to wait for another one to get there. And so
8 that's the delay.

9 I provided you with just a couple cases, I thought
10 Mr. Harrison's cases were good as far as discussing the actual
11 state of the law, what the law was that applies. I think a lot
12 of the points he's trying to make with them are distinguishable
13 from this and I'll get into that in just a little bit, I'm not
14 going to spend a whole bunch of time.

15 But first I -- the one case I provided, which was
16 Saturnino-Boudet, it's a 1996 case from the Third District
17 cited at 682 So.2d 188. And I cite to that because it
18 basically, on the printed page five of six in the right-hand
19 column I have highlighted, I believe, for your Honor all those
20 different lists of examples of how long people can be detained.
21 And this is all for stuff like where they've been -- it's a
22 traffic stop, they suspect maybe drugs are in the car, and
23 they're waiting for K-9 to get there to do a walk around. Not
24 this huge, complex, massive whole chaos, where people are
25 screaming, guys may be running away, and there are three cops

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1 there trying to figure out this very complex scene. This is
2 something like this, and courts are regularly holding that
3 45-minute delay while waiting for a drug dog; perfectly fine,
4 that's a legal, perfectly fine detention. 50 minutes waiting
5 for a drug detection dog because they're inconsistent stories,
6 which according to testimony they received that night, the
7 defendant was telling them one thing, then they got witnesses
8 telling them no, that couldn't have happened that way, so
9 50 minutes was good enough. 45 minutes waiting for a K-9 unit.
10 There's even one finding officer in detaining defendant for
11 approximately 90 minutes.

12 Now, the length of time isn't necessarily always
13 what's going to be the deciding factor. In fact, the courts
14 usually say it's more about why you're holding them. But
15 here's examples of time periods that are almost as long, just
16 as long, or even longer for, I would argue, situations that are
17 much less complex, much less serious, and much less dire to be
18 able to search the person's vehicle or anything and hold them
19 at the scene, and they say they can do that.

20 Here they get consent to draw the blood, so they've
21 got that. At no point is there any testimony or any suggestion
22 that he withdraws that consent or changes his mind. I don't
23 believe, just because you hear it come out that he consents
24 around that half hour mark, that it's just completely
25 voluntary, he's like yeah, go ahead, go ahead and do it. It's

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1 not an acquiescence to authority or because he's in cuffs, or
2 any situation like -- he's like no, do it; basically he's
3 trying, he thinks he can prove his innocence or something like
4 that, is the way it comes off at least.

5 And then there's the unfortunate delay because they
6 don't have the blood kit there, so it takes about another hour,
7 hour -- or about 30 to 40 minutes from there so they can
8 finally get the blood kit and do the draw with the EMT, and
9 they take him over and do it.

10 Yes, your Honor?

11 THE COURT: There's one thing I want you to talk
12 about.

13 MR. FRANZEN: Yes, your Honor.

14 THE COURT: Which wasn't touched on by Mr. Harrison.
15 The officer who went to the hospital and stood guard outside
16 the door.

17 MR. FRANZEN: Yes, your Honor.

18 THE COURT: How does that impact, and isn't that
19 evidence of continued custody of some type?

20 MR. FRANZEN: There was --

21 THE COURT: I need some help on that.

22 MR. FRANZEN: As far as that goes, there was no
23 testimony that he was there, that he made any attempt to
24 prevent him from going anywhere; that he was, that he was told
25 to stop him from -- the testimony was, he went there and stood

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1 guard outside his room. Now, if there was a situation where he
2 says oh, he's being discharged and leaving, and officer --
3 begins with a U, because I always say it wrong -- says no, no,
4 no, you're not going anywhere, maybe we have a different
5 argument. But he's there, it's, I don't think it is ongoing
6 custody. There's nothing about him saying -- because he didn't
7 transport him there in cuffs or anything, he was transported by
8 EMT's in an ambulance. So he's there, maybe he gets a radio
9 call hey, we've got more evidence, now we can arrest him.
10 Well, now they know where he is, we don't have to worry about
11 him taking off and going to find him.

12 So there's reasons for him being there standing
13 guard. There's no testimony that he's in handcuffs or cuffed
14 to the bed or anything while in that room. He's there, they're
15 keeping track of him.

16 At the time he's taken to the hospital, this is just
17 less than an hour and a half after this occurred. The main
18 traffic homicide investigator, Metzger, has basically just
19 gotten there and starting to do measurements and figure out
20 everything that happened, so this is still a constant, ongoing
21 investigation. In the exhibits provided by the Defense that
22 include the CAD report showing the time clearance, clearance
23 isn't until hours and hours later on the scene, into the next
24 day while this is still going on.

25 So they sent an officer there to keep track of him in

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1 case we have to go back and figure out where he is and stuff.
2 But there's been no testimony that he prevented him, had him in
3 custody, had him in handcuffs or anything like that. So I
4 don't think that's any part of the ongoing custody.

5 That's what I have to say about that particular
6 officer.

7 THE COURT: Anything else? I know I kind of -- I do
8 need you to kind of wrap this up.

9 MR. FRANZEN: The one line that I thought was
10 interesting from the Merklein case, M-e-r-k-l-e-i-n, a Second
11 DCA case back from 1980, cited at 388 So.2d 218, it's a
12 highlighted portion I have on the very last printed page. Said
13 if the deputies had allowed the defendants to leave, they would
14 have frustrated any attempted identification part of the
15 investigatory process. This is like a burglary where they're
16 bringing for a showup. So again showing there's multiple
17 different reasons you can hold on to them.

18 And these are very -- the cases that were cited to by
19 Mr. Harrison and that I'm citing to with the K-9 things, which
20 is usually where have your case law rising out of detention,
21 are simple, confined, it's a car and a guy, maybe two people,
22 something like that, the Courts are saying you can hold them
23 for 20, 30, 40, 50, 90 minutes for a K-9 dog to get there. And
24 here they're trying to get blood, when you have multiple dead
25 people at the scene and this horrific crash, that they're still

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1 trying to find out what was going on.

2 So I don't think the detention was tantamount to
3 arrest, I don't think there was actual arrest, I don't think
4 speedy trial was initiated then, and I believe that the
5 detention was reasonable, including the length of time, given
6 all the circumstances that you heard and therefore the blood
7 draw should not be suppressed.

8 THE COURT: Very briefly, sir.

9 MR. HARRISON: Real briefly. The idea that you can
10 hold somebody for 90 minutes for K-9, you got to have
11 reasonable suspicion. You can't do it just every time you have
12 a traffic stop, you have to have reasonable suspicion that the
13 drugs are there and you're waiting for the K-9 unit.

14 Here, they had no reasonable suspicion that he was
15 DUI. It was clear, they said they had no reason to believe
16 that he was Signal 1, and yet he's being detained and not
17 allowed to go to the hospital for his treatment while they're
18 waiting for the blood, because they were ready to take him to
19 the hospital, but they asked him to deal with the blood.

20 So I've got two cases I want to read to kind of wrap
21 this up.

22 I don't believe that the State had a lawful, that
23 there was a lawful basis to handcuff him to start with, but
24 let's assume that they did. If the continuing handcuff is
25 wrong, it's an illegal detention, and the party's over dealing

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1 with the consent. So I want to read to you from Baggett and
2 Reynolds. The Baggett, from Second DCA, Baggett was defacto
3 arrest because he was kept in handcuffs with no articulable
4 reason to do so. Second District said we agree. The testimony
5 reflects that there was no patdown conducted of Baggett to
6 determine whether he was armed -- same thing we've got here --
7 and there was no evidence that threatening circumstances
8 existed to justifying keeping Baggett in handcuffs throughout
9 the detention. So they needed to have circumstances that
10 justified keeping Mr. Crawford in handcuffs throughout the
11 detention.

12 And this is kind of what the Reynolds case out of the
13 Supreme Court said, when they said well, yes, you can use
14 handcuffs, but they said we don't want to suggest that police
15 may routinely handcuff suspect in order to conduct an
16 investigative stop.

17 THE COURT: That was Justice Pariente's concurrence.
18 I've read all the cases, Mr. Harrison. I understand the point
19 you're making. If there's something new, I'd like to hear
20 that, but --

21 MR. HARRISON: Okay, I'm just saying that there was
22 no circumstances for the continuing handcuffs. And actually
23 where I'm reading from is actually in the main body of the
24 opinion.

25 THE COURT: But then Justice Pariente came out

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1 stronger, and she was the fourth vote in that case.

2 MR. HARRISON: Okay.

3 THE COURT: And the other three justices concurred in
4 result only. I'm familiar with the case.

5 Okay. I have a pretty good idea as to what I'm going
6 to do, but I do want to think about it a little bit. I will
7 try to have a written decision out prior to our docket sounding
8 next week on the remaining matters.

9 Let's talk about if this case is going to trial. I'm
10 not saying it is, I'm not saying it's not. But if it's going
11 to go to trial, Mr. Franzen, if he's the one that's going to be
12 trying it, I certainly -- the older case is the Cardarelle Marr
13 case. Those are severed, so I don't know what's going to
14 happen with that, and we'll probably know by Wednesday.

15 We also have the Coleman Brooks matter that's there
16 with your office, that's also older, but that one seems to be
17 more of a toss up as to whether or not it's going to go. And
18 then Mr. Crawford is going to be the third in line for
19 Mr. Franzen.

20 I've got two weeks, so whatever we can do, as far as
21 all these cases. Mr. Franzen, just like Ms Evers, who's
22 sitting next to him now, is going to be very, very busy the
23 next couple weeks. So that's kind of where we are as far as
24 what Mr. Franzen has on his plate.

25 But I do think we need to continue on the path of

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1 preparing for trial for this October trial date.

2 MR. FRANZEN: The issue with that, as I brought up
3 before with my motion to continue, aside from the issues you
4 just brought up, is that his expert witness was just listed
5 September 8, and I have no time to take his deposition. And
6 even if I did, no notes or reports have been provided from him
7 for me to effectively prepare to take an effective deposition
8 of an expert witness, where this case is largely going to come
9 down to a battle of experts. So that's not just like an
10 eyewitness something, where I can take it just before trial and
11 kind of figure it out. It's something I have to prepare for,
12 it's a lengthy depo, and be able to do all that. And --

13 THE COURT: He's in Martin County, if I remember.

14 MR. FRANZEN: Yes, yes, just outside Palm City, I
15 think, outside of Stuart in Martin County is where he's
16 located. But with time and everything else, I don't think I'll
17 be able to do it. Plus, without having any notes or anything,
18 I'm not in a position to be able to effectively do that sort of
19 a deposition with that at this date.

20 So I have my concerns about my own trial list, but
21 even if I didn't have those concerns, that would be my biggest
22 concern, just about this case in a vacuum, being able to
23 effectively do that. I know previously Mr. Harrison --

24 THE COURT: Mr. Harrison, I don't mind, in the
25 December trial period, working on that Friday.

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1 THE CLERK: I'm not here.

2 THE COURT: My clerk's telling me she's not here, and
3 I know the Clerk's office is closed. If you guys can do it,
4 assuming that we're still having a case, I don't mind working
5 on that Friday before Christmas. I don't know if I'm going to
6 have a clerk though, which means that if this case is really an
7 entire week case, we're looking at February, if you're agreeing
8 to the continuance at this point.

9 MR. HARRISON: Well, I mean realistically, and the
10 way that the case where Ms Vitale and I have been working on it
11 is on these issues right here, and which could render the
12 expert part moot. What needs to be done with the experts and
13 the complexity, because dealing with drugs versus alcohol, it's
14 a whole different story and that part, if it's going to go to
15 trial on those issues, it probably is not ready on those lines.
16 Because this is, we've had so many discovery issues here, this
17 is where our focus has been.

18 THE COURT: Okay.

19 MR. HARRISON: But whether that's December or
20 February -- I know I've talked with Mr. Crawford, he wants this
21 done sooner, but he would rather have it done right than rush
22 into it. So --

23 THE COURT: So both sides are agreeing to continue
24 it; is that correct, Mr. Harrison?

25 MR. HARRISON: Yeah, I agree, it's really not, with

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1 what he's going on and where it is with the experts, it
2 probably is not ready for trial.

3 THE COURT: I'm going to put it on the December trial
4 date. Let me see what I can do about making sure we have a
5 clerk to go on that Friday.

6 MR. HARRISON: Okay.

7 THE COURT: That would be a whole week.

8 MR. HARRISON: And the two of us need to be done with
9 the experts to get a bigger feel, to make sure that it takes a
10 full week. But since we have witnesses that do not speak
11 English, that leads to adding time.

12 THE COURT: Okay. Why don't you guys sign the
13 stipulation, I'll get a written order out. If we're not going
14 to have the trial it might take me a few more days, but I will
15 get it very soon. You're excused for docket sounding in this
16 case for Wednesday, I don't know if you've got anything else
17 going on for other cases, Mr. Harrison, but if you and Mr.
18 Crawford can sign the stipulation.

19 Then we need to switch out the cases so I can have
20 Mr. Salazar present so we can start that hearing.

21 (THE PROCEEDINGS WERE ADJOURNED.)

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C E R T I F I C A T I O N

3 I, BEVERLY FOOR, RMR, Official Court Reporter in and
4 for the Twelfth Judicial Circuit of the State of Florida, do
5 hereby certify that I reported, by shorthand machine, the
6 proceedings had and testimony taken in the above-entitled
7 cause, and that on December 14, 2017 the foregoing Pages 1
8 through 157 were truly and accurately transcribed from my
9 shorthand notes taken at the time and place herein set forth.

Bruce Sauer

BEVERLY FOOR, RMR
Official Court Reporter

OFFICIAL COURT REPORTERS
TWELFTH JUDICIAL CIRCUIT