

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

16 A. Yes.

17 Q. That he said Deputy Reiger said
that he

18 had slurred speech.

19 A. Yes.

20 Q. Yet Deputy Reiger did not
conduct any DUI

21 investigation, did he?

22 A. No.

23 Q. Now, you've conducted many DUI

24 investigations during the course of your
career,

25 correct?

1 A. Yes.

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

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

5 A. Yes.

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

7 around the --

8 A. Around that, yes.

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

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

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

12 accident, they're being treated at the hospital

13 and an officer has reasonable suspicion that
they

14 are under the influence of alcohol , the officer,

15 under Florida's implied consent law, can ask
that

16 person to provide a sample of their blood for

17 testing, correct?

18 A. They can, yes.

19 Q. Now, let me have you look at the
CAD report

20 again, at 2:11, if you can look at that. I think

21 it's page 7. Can you read what that event
comment 22 is at 2:11?

23 A. It says -- right at 2:11?

24 Q. Yes.

25 A. It says, F D cannot determine if
anyone is

1 in the vehicle.

2 Q. Okay. So according to what's in
3 this

4 computerated dispatch report, that the fire

5 department, at 2:11, could not determine if

6 anyone's in the vehicle.

7 A. That's what it says.

8 Q. So that's actually different than
9 what

10 Deputy Reiger told you that's in your report.
11 He

12 said that at 1:38, he was told by fire
13 department,

14 and that's why he called the tow truck; do you

recall that?

A. That's what he told me.

Q. Now, let's get back to everything
else that

Deputy Reiger told you that first night you
spoke

15 to him.

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

17 to both know Noel and Reiger and obtained all
of

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

19 minutes; is that correct?

20 A. Yes.

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

22 was the first responding deputy. He arrived
on

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

24 A. Yes.

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

1 a damaged black Bentley on the side of the
road

2 and the vehicle upside down in the canal.

3 A. Yes.

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

5 Ocoro, had already left the scene prior to

6 arrival.

7 A. Correct.

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

9 truck at 1:38 a.m., you have in parenthesis, to

10 recover the vehicle because fire rescue
personnel

11 told him the vehicle in the canal was not

12 occupied, correct?

13 A. Yes.

14 Q. And we're just going through
everything

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

16 A. Correct.

17 Q. And Deputy Reiger said the
driver of the

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

19 A. Correct.

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

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

22 you. The driver of the Bentley then called

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

24 the collision scene, correct?

25 A. Yes.

1 Q. And then he told you that Deputy
Safford

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

4 A. Yes.

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

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

7 where fire rescue personnel

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

9 A. Yes.

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

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

13 back of the rescue rig.

14 A. Yes.

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

16 got to Mr. Goodman?

17 A. I don't remember.

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

19 that he stopped at the stop sign and then hit

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

21 A. Correct.

22 Q. And then Reiger said that Sisters
Towing

23 had responded, removed the vehicle from the
canal,

24 found the driver was still belted into the

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

1 A. Yes.

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

5 A. Yes.

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

11 A. Yes.

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

17 A. Yes.

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

both

15 Deputy Noel and Deputy Reiger and obtained
all of

16 that information, correct?

17 A. Yes.

18 Q. Then you walked over, you
observed the

19 damage to the Bentley?

20 A. Yes.

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

22 correct?

23 A. Yes ;

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

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

1 A. Yes.

2 Q. And you took notand observed
the damage

3 to the Hyundai also, correct?

4 A. Yes.

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

7 A. Yes.

8 Q. You identified gauge marks?

9 A. Yes.

10 Q. You then looked and identified
also tire

11 marks.

12 A. Yes.

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

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

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

do

16 that?

17 A. It was very, very apparent in this
18 situation what each thing was.

19 Q. Okay. How did you do it
physically,
20 though? Did you just stand there, or did you
get
21 down and actually look to make sure that --

22 A. I just stood there and looked at it.
This
23 is a preliminary walk-through.

24 Q. Okay. You then followed the
path that the
25 vehicles took to find a -- and I'm assuming by

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

4 A. Correct.

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

7 A. Yes.

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

10 A. Just a short distance, yes.

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

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

13 of boot prints leading away from B 1 and
traveling

14 south on 120th, correct?

15 A. Correct.

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

17 prints lead to the address of 4193 120th South

18 where D 1 was found, which is approximately

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

20 that what's in your report?

21 A. Yes.

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

23 according to your report, to the address in
which

24 Mr. Goodman was found.

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

1 down to the address at that point.

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

3 reads that you did, though?

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

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

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

7 times a football field, correct?

8 A. Yeah.

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

10 while to do that?

11 A. It takes about five minutes.

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

13 to your vehicle

14 A. Yes.

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

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

17 head to Wellington Regional Hospital, correct?

18 A. Yes, yes.

19 Q. And the hospital is about five
miles from

20 the accident scene?

21 A. Not very far.

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

A. I don' t know.

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

25 contact wi th Mr. Goodman?

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

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

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

4 A. It wasn't very long.

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

6 A. Ten minutes, maybe.

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

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

9 Wayne Byrd; do you recall that?

10 A. Yes.

11 Q. Where is the lobby located in
 relation to

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

13 A. Very close proximity.

14 Q. Now, when you came into contact
 with

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

16 draw, right, and he said no.

17 A. Yes.

18 Q. And you told him that you had
probable

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

20 did not have the right to refuse, correct?

21 A. That's correct.

22 Q. You then instructed nurse Cecilia
Betts

23 to draw blood from Mr. Goodman, correct?

24 A. I did.

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

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

6 A. correct.

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

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

15 Q. And you have that in your
computer?

16 A. Yeah.

17 Q. Now, whenever you've obtained
search

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

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

20 you know what time it was that you called
Ellen

21 Roberts because she responded to this
particular

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

23 case?

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

25 Q. Do you know when anybody else
called her

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

2 A. I have no idea.

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

4 duty?

5 A I have no idea.

6 Q You didn't check?

7 A No.

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

9 A No.

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

11 search warrant, did you?

12 A. No.

13 Q. Okay.

14 MS. PARKER: Thank you. I have no

15 further questions.

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

18 MS. COLLINS: Briefly, your Honor.

19 REDIRECT EXAMINATION

20 BY MS. COLLINS:

21 Q. Now, Investigator Snelgrove, you
were only

22 on scene, preliminarily on the crash, from

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

24 hospital?

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

1 Q Was one of the reasons that time
is so
2. short was because Officer Cruz and Officer
Noel
3 were already on scene and gathered a lot of
that
4 information for you?

5 A. Yes.

6 Q If Officer Cruz and Officer Noel
had not
7 been there for the better part of a half hour,
can
8 you opine how long you would have had to
remain on
9 scene to get sufficient information to develop
10 more probable cause?

11 A It would have taken a little bit
longer,
12 but not a whole lot longer.

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

14 be there 15 minutes is because they were
already

15 there.

16 A Like I said, it was a preliminary
thing

17 when I go to the scene to establish probable

18 cause.

19 Q Do you remember if you walked
all the way

20 down to 120th Avenue South where the
footprints

21 the boot prints stopped that morning
originally at

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

23 on?

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

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

1 of boot prints leaving from the car.

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

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

6 A Yes.

7 Q Now, even though you have a
8 search warrant

9 template, how long would it have taken you to
10 fill

11 in the facts of the crash, the facts of your

12 probable cause, things of that nature, even if
13 you

14 had a template already?

15 A. It still would have taken 30, 45
16 minutes.

17 MS. COLLINS: I don't have any

18 further questions, your Honor.

19 THE COURT: Anything else,

15 Ms. Parker?

16 MS. PARKER: No, your Honor.

17 THE COURT: Investigator
Snelgrove,

18 thank you very much, you're excused.

19 THE WITNESS: Thank you.

20 THE COURT: Any other witnesses
or

21 exhibits from the State?

22 MS. COLLINS: Just argument, your
23 Honor.

24 THE COURT: All right. Defense,
25 Ms. Parker, anything, witnesses or

1 exhibits?

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

4 THEREUPON:

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

9 THE WITNESS: I do.

10 THE CLERK: Thank you.

11 THE COURT: Good morning.

12 THE WITNESS: Good morning.

13 THE COURT: Once you get settled
in

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

16 THE WITNESS: Officer Melinda

Hanton,

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

18 THE COURT: H-A-N --

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

20 THE COURT: And the first name
is

21 spelled?

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

23 THE COURT: Thank you very
much.

24 And what agency are you with?

25 THE WITNESS: Palm Beach
Gardens

1 Police Department.

2 THE COURT: Thank you so very
much.

3 Ms. Parker.

4 MS. PARKER: Thank you, your
Honor.

5 DIRECT EXAMINATION

6 BY MS. PARKER:

7 Q. Good morning, Officer Hanton.

8 A. Good morning.

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

10 Department; how long have you been
employed there

11 as an officer?

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

13 Q. Do you currently hold any special
position

14 there at the police department?

15 A. I do.

16 Q. What it that?

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

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

19 enforcement officer for the Palm Beach
Gardens

20 Police Department?

21 A. Since November of 2008.

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

23 specialized training as it relates to identifying

24 drivers who are under the influence of alcohol
or

25 drugs?

1 A. Yes.

2 Q. What kind of training do you
have?

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

12 Q. Thank you. Now, you said you
were a

13 certified drug recognition expert. Can you
14 explain that a little bit more to the Court,

what

15 exactly that entails; how much training did
you

16 have to go through for that?

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

18 enforcement for a while, you have to actually

19 apply with the Institute of Police Technology
and

20 Management to actually get accepted into the

21 class. And for the application process, you
have

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

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

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

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

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

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

16 A. Correct.

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

Palm

16 Beach Gardens Police Department that day?

17 A. I was.

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

19 DUI enforcement operation that was called,
the no

20 refusal weekend?

21 A. I did.

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

23 patrol?

24 A. Yes, ma'am.

25 Q. Could you explain to the Judge
what occurs

1 during a saturation patrol?

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

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

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

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

17 up to do so.

18 MS. PARKER: Yes, your Honor.

19 THE COURT: My recollection of
20 these

20 saturation -- everybody's onboard,

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

22 police are ready and the duty Judges are

23 all ready for that type of thing. How is

24 that similar to what we've got going on

25 with the events involving the allegations

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

4 MS. PARKER: Okay, Judge.

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

13 MS. PARKER: Thank you, Judge.

14 THE COURT: The objection is
15 overruled.

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

17 saturation patrol.

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

23 BY MS. PARKER:

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

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

4 A. Yes, ma'am.

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

6 weekend, did you prepare an affidavit and
search

7 warrant and have it readily available to you?

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

9 but I had it.

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

11 the ability to put your own biographical

12 information in and add Defendant's
information and

13 things to tailor it to specific cases?

14 A. Yes.

15 Q. Okay.

16 MS. PARKER: Your Honor, may I
17 approach the witness?

18 THE COURT: Yes.

19 BY MS. PARKER:

20 Q. I'm showing you what we marked
as Defense 1
21 for the purposes of this hearing. Do you
22 recognize this?

23 THE COURT: Have you given a
copy of
24 that to the State?

25 MS. PARKER: I have, Judge.

1 THE WITNESS: Yes.

2 BY MS. PARKER:

3 Q. And tell me what that is.

4 A. This is the blank warrant that we
were

5 given to fill in the information.

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

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

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

9 in the Defendant's identifying information and
any

10 biographical information specifically
pertaining

11 to you?

12 A. Yes.

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

14 saturation patrol, did you make an arrest for

DUI?

15 A. I did.

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

17 you arrested that night?

18 A. Mark Legionaise (phonetic).

19 Q. And after you placed him under
arrest for

20 DUI, where did you take him?

21 A. To the Palm Beach County
Breath Alcohol

22 Testing Center.

23 Q. And was that the mobile breath
testing

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

25 jail facility?

1 A. At the jail.

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

3 breath test?

4 A. Yes.

5 Q. And what did he do?

6 A. Refused.

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

8 what's the next thing that happened?

9 A. I read him implied consent.

10 Q. Okay.

11 A. And he refused again.

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

13 a search warrant?

14 A. Yes.

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

16 that evening?

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

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

19 history and everything else, you told me to
come

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

21 Jog and Okeechobee, to go ahead and start
putting

22 the warrant information together. I still had
to

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

24 I transported the Defendant to the mobile
command

25 center.

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

5 A. I was.

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

9 A. Yes.

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

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

15 Q. Okay. And once you got to the
 area and

16 began to work on that search warrant
 procedure,

17 and -- from writing the search warrant to
 getting

18 it signed , was that a two, three-hour process?

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

20 exact time.

21 Q. Okay. All right. Thank you.

22 MS. PARKER: I have no further

23 questions.

24 Judge, I would like to submit that as

25 Defense Exhibit 1.

1 THE COURT: Any objection to
Defense

2 1?

3 MS. COLLINS: No, sir.

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

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

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

9 THE COURT: Yes, you may
proceed.

10 CROSS EXAMINATION

11 BY MS. COLLINS:

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

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

15 A. No.

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

17 warrant back then, did you?

18 A. No.

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

20 search warrant for blood, did you?

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

22 me that night.

23 Q. So for this special saturation
patrol,

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

25 A. Correct.

1 Q. She even included all of your
training and

2 experience so that you had something
prewritten

3 and ready to go?

4 A. Correct.

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

6 that, correct?

7 A. Correct.

8 THE COURT: Let me just insert in
the

9 record, just in case someone reads this

10 later on down the road, at that time,

11 Ms. Parker was an assistant State attorney.

12 MS. COLLINS: Yes, your Honor,
thank

13 you.

14 THE COURT: If the reader hadn't

15 figured that out yet.

16 BY MS. COLLINS:

17 Q. In terms of the saturation patrol ,
based

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

20 A. Yes, ma'am.

21 Q. The Judge was already onboard
and knew what

22 you all were attempting to do?

23 A. Yes, ma'am.

24 Q. There was already an ambulance
on scene at

25 the command post, with paramedics, ready to
draw

1 the blood immediately upon the search
warrant

2 being executed; isn't that correct?

3 A. Yes, ma'am.

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

5 the middle of the night?

6 A. No.

7 Q. Never?

8 A. No.

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

10 crashes, you still never done a search warrant
in

11 the middle of the night for blood?

12 A. That's correct.

13 MS. PARKER: Objection, your
Honor,

14 asked and answered.

15 THE COURT: Sustained.

16 BY MS. COLLINS:

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

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

19 to have an original search warrant and
duplicate

20 to be able to be served on a person?

21 A. No.

22 Q. The search warrant that was
obtained on the

23 night of February 28, 2009, during the
saturation

24 patrol, from Mark Legionaise was done by fax?

25 A. Correct.

- 1 Q. Not an original.
- 2 A. Correct.
- 3 Q. Did you ever have an original to
be able to
- 4 serve to Mr. Legionaise to draw his blood?
- 5 A. Just what was faxed back.
- 6 Q. Let's go through the timeline.
Would you
- 7 agree with me that Mr. Legionaise was
stopped at
- 8 9:30 in the evening by Officer Bray
(phonetic)?
- 9 A. Correct.
- 10 Q. And would you agree with me
that he was
- 11 placed under arrest at approximately 9:45 that
- 12 evening?
- 13 A. Correct.
- 14 Q. Would you also agree that at
approximately

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

17 A. Correct.

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

22 A. Correct.

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

25 A. No, ma'am.

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

2 A. Correct.

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

4 of the arrest at all?

5 A. No.

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

7 out who was involved in the case.

8 A. Correct.

9 Q. You arrived at the jail at
approximately

10 10:46; would you agree with that?

11 A. Yes, ma'am.

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

13 have to do before you read the implied consent
to

14 Mr. Legionaise?

15 A. I conducted a 20 minute
observation period.

16 Q. And once you do the 20-minute
observation
17 period and he refused, you said you then had
to
18 stop and write your report?

19 A. Yes.

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

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

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

23 might fit the criteria for what she was looking
24 for at this saturation patrol?

25 A. Yes.

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

4 A. Approximately an hour.

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

8 A. My report was completed when I
left. I
9 don't know exactly how long it took me to
write
10 it.

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

13 A. No.

14 Q. So when you arrived at the

command center,

15 you just cut and pasted your report, your
probable

16 cause affidavit, right into the search warrant

17 affidavit that Ms. Parker had already
prepared?

18 A. Yes, ma'am.

19 Q. And because she already
prepared her

20 affidavit, there really was no delay in terms of

21 reviewing the warrant?

22 A. No, just what I added.

23 Q. Do you know what time the
search warrant

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

25 it signed -- to have it executed?

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

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

3 2 o'clock.

4 Q. Do you know who was given the
search

5 warrant to present to Mr. Legionaise?

6 A. Yes.

7 Q. And who was that?

8 A. Corporal Croucher.

9 Q. If I showed you a copy of Corporal

10 Croucher's report, would the times within it

11 reflect be able to refresh your recollection as

12 to what time the actual search warrant was

13 presented to Mr. Legionaise?

14 A. Yes.

15 MS. COLLINS: Let the record
reflect,

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

18 THE COURT: Yes.

19 BY MS. COLLINS:

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

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

22 time were you able to present it to

23 Mr. Legionaise?

24 A. 1:55.

25 Q. 1:55 in the morning?

1 A. Yes, ma'am.

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

3 your 20-minute observation period would have
taken

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

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

6 the search warrant by fax and get it served?

7 A. Yes, ma'am.

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

10 THE COURT: Any redirect?

11 MS. PARKER: Yes, Judge.

12 REDIRECT EXAMINATION

13 BY MS. PARKER:

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

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

16 A. No.

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

18 warrants to everybody way in advance to put
their

19 own biographical information in them and
then they

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

21 A. I remember you sending me the
search

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

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

24 remember.

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

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

4 A. Yes.

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

6 went to the BAT facility. The BAT facility
was

7 backed up significantly that night, correct?

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

9 ago, I don't remember.

10 Q. Well , if you look in your report
that you

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

12 test was administered?

13 A. There was no breath test.

14 Q. Well , the breath test was

requested by you,

15 start time and end time.

16 A. I can't read this copy.

17 Q. Do you see where it says 23?

18 A. This copy is really bad.

19 Q. Okay.

20 A. I can't read it.

21 Q. I think you have two in front of
you, of

22 the same copy.

23 MS. PARKER: Maybe the State has
a

24 better copy?

25 MS. COLLINS: I don't.

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

4 BY MS. PARKER:

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

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

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

13 A. I can't remember.

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

16 A. No.

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

18 back to the command facility.

19 A. Correct.

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

21 report in front of you that Greg Croucher
authored

22 his PC affidavit. What time does he say that

23 he -- that the Defendant declined to have the

24 search warrant administered?

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

1 Q. He says on the above date and
time, what
2 time is that?

3 A. 1:35.

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

6 A. Yes.

7 Q. And you don't know what the
law is
8 regarding faxed warrants, original signatures,
9 electronic transmissions. You don't have any
clue
10 about that, do you?

11 A. No.

12 MS. PARKER: Okay. Thank you, I
have
13 no further questions.

14 THE COURT: Ms. Collins,
anything

15 else?

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

17 THE COURT: Officer Hanton,
thank you

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

19 day.

20 THE WITNESS: Thank you, you too.

21 THE COURT: Any other witnesses
or

22 exhibits from the Defense?

23 MS. PARKER: Not from the
Defense,

24 your Honor.

25 THE COURT: Anything rebuttal,
State?

1 MS. COLLINS: No, just argument,
your

2 Honor.

3 THE COURT: Let's go to argument,

4 Ms. Parker.

5 MS. PARKER: Your Honor, the
Fourth

6 Amendment to the United States constitution

7 provides the right of people to be secure

8 in their person's houses, papers in effect

9 against unreasonable searches and seizures.

10 Florida's constitution repeats the

11 same language from the United State's

12 constitution, but also informs the

13 citizenry of the state of Florida that this

14 right shall be construed in conformity with

15 the Fourth Amendment to the United States

16 constitution as interpreted by the United

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

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

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

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

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

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

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

1 attempt to obtain a warrant. And over the
2 40 years since Schmerber was decided,
3 communication technology has vastly
4 improved, allowing for oral warrants,
5 telephonic warrants, fax warrant, e-mail
6 warrants and other innovations. As your
7 Honor's aware, the Judges now have iPads to
8 obtain their warrants.
9 The United States Supreme Court
10 resolved a 46-year varied interpretation by
11 courts of the holding in Schmerber by
12 granting certiorari in Missouri versus
13 McNeely, and that case was decided in 2013.
14 The Supreme Court stated in that particular
15 case that the principle applies to the type
16 of search at issue in this case. It was a
17 DUI blood draw case, which involved a

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 THE COURT: Thank you very
much,

14 Ms. Parker.

15 MS. PARKER: Thank you.

16 MS. COLLINS: First of all, your

17 Honor

18 THE COURT: Just one second.
Let me

19 catch up here first.

20 MS. COLLINS: Sure.

21 THE COURT: All right, Ms.
Collins,

22 you may proceed.

23 MS. COLLINS: Yes, your Honor.

24 First of all, since you indicated

25 that you received the State's response, I

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 and of itself , creates such a delay with
2 exigency, that when the body was found
3 approximately 30 minutes later, we're
4 already at the point where we've got
5 compelling State interests such that
6 exigency would compel the blood draw to be
7 done superseding the privacy interests of
8 the individual.

9 It's quite interesting that the
10 warrant that was obtained , and I would
11 agree with the Court that the Defense is
12 trying to compare apples and oranges, the
13 fact that the stars aligned , and we had a
14 pre-approved warrant with a pre-approved
15 Judge and a prosecutor who was awake and on
16 scene and an ambulance that was already on
17 scene, ready to draw the blood , and even

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

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

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

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

17 THE COURT: All right, thank you

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

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

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

11 MS. COLLINS: 19.

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

17 March 3rd.

18 THE COURT: Okay. And is

19 Mr. Duncan?

20 MR. DUNCAN: Judge, we conducted
the

21 inspection of the Bentley. We have turned

22 over the idea to the State of that. I

23 believe the State has scheduled a

24 deposition of our expert in Boston on the

25 14th of this month. I would anticipate

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

17 MS. PARKER: Judge, I've been

trying

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

19 have five experts that are out of state.

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

21 waiting on. Those aren't scheduled for

22 deposition yet.

23 MS. COLLINS: We'll been doing
that

24 today.

25 THE COURT: All right. But
everybody

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

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

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

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

16 MS. COLLINS: It's a

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

20 THE COURT: All right.

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

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

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

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

13 THE COURT: But other than that.

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

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

20 THE COURT: All right.
Anything else

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

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

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

4 THE COURT: We can get them.

5 MS. COLLINS: Pardon?

6 THE COURT: I said I can get
7 them.

7 I've got it.

8 MS. COLLINS: I already have them

9 printed, if you don't want to fill in more

10 (Indiscernible.)

11 THE COURT: No, thank you, I

12 appreciate that. I appreciate the offer

13 and your discretion in not generating more

14 paper.

15 All right, yeah, I'll take the

16 mystery out of it. I am gonna deny the

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

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

8 MR. DUNCAN: No, sir.

9 THE COURT: Thank you so very
 much

10 for you time. Have a good weekend.

11 Happy New Year, everybody.

12 (Proceedings concluded.)

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

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

18

19

20

21 MELISSA SOTILLO, Manager

22 Court Reporting Services

23

24

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