

1 APPEARANCES CONTINUED:
2

3 DALTON & ASSOCIATES, P.A.
4 BY: BARTHOLOMEW J. DALTON, ESQ.
5 BY: CONNOR DALTON, ESQ.

6 -and-

7 WINSTON & STRAWN LLP
8 BY: ABBE DAVID LOWELL, ESQ.
9 BY: DAVID KOLANSKY, ESQ.
10 BY: ISABELLA OISHI, ESQ.

11 Counsel for the Defendant
12
13 -----
14

08:26:24 14

08:45:38 15

COURTROOM DEPUTY: All rise.

08:58:46 16

THE COURT: All right. Good morning, everyone.

08:58:50 17

Does someone want to talk?

08:58:51 18

MR. LOWELL: Yes, ma'am.

09:10:04 19

(Discussion off the record.)

09:10:23 20

THE COURT: Mr. Lowell, have you given us your

09:11:10 21

direct exhibits?

09:11:11 22

MR. LOWELL: We did, yes, we sent it to the

09:11:14 23

Court when we sent it to the government.

09:11:16 24

THE COURT: I don't have it.

09:11:18 25

MR. LOWELL: Would you let me know, and we can

09:11:20 1 do it again?

09:11:27 2 (Jury entering the courtroom at 9:12 a.m.)

09:12:57 3 THE COURT: All right. Members of the jury,
09:13:15 4 welcome back. Everyone else, please be seated.

09:13:18 5 Members of the jury, it's time for me to ask my
09:13:23 6 daily question. Have you spoken to anyone, has anyone
09:13:27 7 spoken to you or tried to speak to you or even had a
09:13:30 8 conversation about this case in your presence that you were
09:13:35 9 listening to?

09:13:37 10 THE JURY: No.

09:13:37 11 THE COURT: All right. Anyone do any research,
09:13:41 12 listen to any news reports, or even accidentally listen to,
09:13:45 13 read, hear anything about this case?

09:13:47 14 THE JURY: No.

09:13:48 15 THE COURT: All right. Thank you.

09:13:49 16 And then it's been about a week, so I'll just
09:13:52 17 remind you also again, don't talk to anybody, and when I say
09:13:57 18 don't talk to anybody, that includes each other about the
09:13:59 19 case, now that you guys have got to know each other
09:14:03 20 sometimes I like to remind you because it gets easier as you
09:14:06 21 know each other better.

09:14:07 22 THE COURT: Okay, alright, who do we have next?

09:14:09 23 MR. WISE: Thank you, Your Honor. The United
09:14:19 24 States calls Dr. Jason Brewer.

09:14:23 25 COURTROOM DEPUTY: Please raise your right hand.

Brewer - direct

09:14:27 1 Please state and spell your full name for the record.

09:14:36 2 THE WITNESS: Jason Brewer, J-A-S-O-N,

09:14:41 3 B-R-E-W-E-R.

09:14:43 4 JASON BREWER, having been duly sworn, was

09:14:48 5 examined and testified as follows:

09:14:51 6 DIRECT EXAMINATION.

09:15:05 7 MR. WISE: Thank you, Your Honor.

09:15:06 8 BY MR. WISE:

09:15:07 9 Q. Good morning, Dr. Brewer.

09:15:09 10 A. Good morning.

09:15:09 11 Q. Where do you work?

09:15:10 12 A. I work at the FBI Laboratory in Quantico, Virginia.

09:15:15 13 Q. How long have you been with the FBI?

09:15:16 14 A. A little over twenty years.

09:15:18 15 Q. Can you describe briefly the positions you have held

09:15:21 16 in your twenty years with the FBI?

09:15:23 17 A. I was first hired as a research chemist through a
09:15:27 18 contract post-doctoral program, I did that for approximately
09:15:33 19 11 months. Then I was hired on permanently as a forensic
09:15:36 20 chemist in the chemistry unit. I spent approximately two
09:15:40 21 years in that position, and then was promoted to my current
09:15:43 22 position of chemist forensic examiner.

09:15:46 23 Q. Have you been there ever since?

09:15:49 24 A. Yes, approximately seventeen-and-a-half years.

09:15:51 25 Q. And can you describe what your duties and

Brewer - direct

09:15:54 1 responsibilities are as a chemist and forensic examiner in
09:15:57 2 the chemistry unit?

09:15:58 3 A. So when evidence is submitted to the FBI Laboratory,
09:16:02 4 when there is a question about the chemical nature of the
09:16:05 5 item, I will analyze that item of evidence, and write an FBI
09:16:10 6 Laboratory report stating my conclusions. And then testify
09:16:13 7 in court when requested.

09:16:15 8 Q. And tell us about your educational background?

09:16:18 9 A. I have a bachelor of science degree in chemistry from
09:16:22 10 James Madison University. And a Ph.D. in chemistry from the
09:16:26 11 University of North Carolina, Chapel Hill.

09:16:29 12 Q. Are you a member of are any professional
09:16:31 13 organizations?

09:16:32 14 A. Yes, I am a member of SWGDRUG, which is the
09:16:36 15 scientific working group for the analysis of seized drugs.

09:16:39 16 Q. And what does that group do?

09:16:43 17 A. It's a group of international forensic chemists that
09:16:48 18 help write guidelines and best practices for analyzing
09:16:52 19 controlled substances.

09:16:52 20 Q. Have you ever had previous experience testifying as
09:16:55 21 an expert?

09:16:56 22 A. Yes, I have.

09:16:57 23 Q. Approximately how many times?

09:16:59 24 A. Approximately 25 times.

09:17:01 25 Q. And have you had any specialized training that

Brewer - direct

09:17:05 1 qualified you as a forensic chemist with the FBI lab at
09:17:09 2 Quantico?

09:17:10 3 A. Yes. The first permanent position I described as a
09:17:13 4 forensic chemist, that required an approximately one year
09:17:17 5 training program to be qualified and authorized in that
09:17:20 6 position. And then the current position I hold of chemist
09:17:24 7 forensic examiner, also required approximately one year of
09:17:27 8 training to become qualified and authorized.

09:17:35 9 Q. Can you tell us, and again, it's only an
09:17:35 10 approximation, but can you tell us the number of suspected
09:17:39 11 controlled substances you have examined in your career?

09:17:42 12 A. Probably thousands of items.

09:17:45 13 MR. WISE: Your Honor, at this time I would move
09:17:47 14 to qualify Dr. Jason Brewer as an expert in the field of
09:17:50 15 forensic chemistry.

09:17:52 16 THE COURT: Any objection?

09:17:53 17 MR. KOLANSKY: No objection.

09:17:54 18 THE COURT: Thank you. He'll be recognized as
09:17:55 19 such. So what that means, members of the jury, fact
09:17:58 20 witnesses can testify to facts, what they know, what they
09:18:02 21 experience. An expert witness is qualified, so the expert
09:18:06 22 can give opinions, so that's why we had to do that, and he
09:18:10 23 can only give opinions in what he's been qualified as an
09:18:13 24 expert.

09:18:15 25 MR. WISE: May I approach, Your Honor?

Brewer - direct

09:18:23 1 THE COURT: You may.

09:18:29 2 BY MR. WISE:

09:18:31 3 Q. Dr. Brewer, I have just handed you what's been
09:18:34 4 already admitted in evidence as government Exhibit 4. Do
09:18:37 5 you recognize that?

09:18:39 6 A. Yes, I do. Within the interior package I can see my
09:18:44 7 name and initials where I sealed the evidence.

09:18:46 8 Q. And is this an exhibit, a piece of evidence you were
09:18:49 9 asked to analyze?

09:18:50 10 A. Yes, it is.

09:18:52 11 Q. And if I can have government Exhibit 4C, which I also
09:18:56 12 believe is in evidence?

09:18:57 13 MR. WISE: I would offer 4C in evidence, Your
09:18:59 14 Honor, it's a photo of the pouch, if there is no objection.

09:19:03 15 MR. KOLANSKY: No objection.

09:19:04 16 THE COURT: Thank you. It's admitted.

09:19:06 17 (Exhibit No. 4C was admitted into evidence.)

09:19:07 18 BY MR. WISE:

09:19:07 19 Q. Do you see 4C on your screen or on the big screen,
09:19:11 20 Dr. Brewer?

09:19:12 21 A. Yes.

09:19:12 22 Q. Generally speaking, what is this?

09:19:14 23 A. Those are the photographs I took of what we called
09:19:18 24 Item 1 at the FBI Laboratory, which is a brown pouch.

09:19:22 25 Q. And that's the brown pouch in government Exhibit 4

Brewer - direct

09:19:24 1 that I have just handed you?

09:19:26 2 A. Yes, sir.

09:19:26 3 Q. Now, I'm going to ask you what you did to analyze any
09:19:30 4 substances found in this pouch, but before I do, I just want
09:19:34 5 to ask a couple of questions about what you didn't do.

09:19:37 6 Okay?

09:19:37 7 Now, were you asked to analyze this pouch for
09:19:41 8 fingerprints or DNA?

09:19:44 9 A. No, I was not. And those are not areas of my
09:19:48 10 expertise.

09:19:49 11 Q. So those aren't tests you conduct?

09:19:51 12 A. No.

09:19:51 13 Q. Is there a test that can determine when a drug or
09:19:55 14 controlled substance is put on a physical item like this
09:19:58 15 pouch, is there such a test?

09:20:01 16 A. No.

09:20:01 17 Q. So that wasn't a test you conducted; correct?

09:20:04 18 A. Correct.

09:20:04 19 Q. Is there a forensic test that can determine who put
09:20:13 20 drugs on a physical item?

09:20:13 21 A. No.

09:20:13 22 Q. So that wasn't a test you were asked to conduct,
09:20:17 23 correct?

09:20:18 24 A. Correct.

09:20:18 25 Q. And to be clear, you received the pouch in the

Brewer - direct

09:20:22 1 condition it's in, right?

09:20:23 2 A. Yes.

09:20:24 3 Q. Your analysis does not address what might have
09:20:29 4 happened with the pouch before you received it; right?

09:20:32 5 A. Correct.

09:20:33 6 Q. And I think this probably goes without saying, but
09:20:41 7 you weren't asked to test, or do a test to determine who put
09:20:45 8 the drugs, if drugs were found on the object, correct?

09:20:48 9 A. That's correct.

09:20:49 10 Q. Now I want to ask you about what you did, the tests
09:20:52 11 you did.

09:20:53 12 Can you tell the members of the jury what
09:20:55 13 qualitative tests you performed to determine whether or not
09:20:59 14 the exhibit contained controlled substances?

09:21:02 15 A. So the first thing I do in any exam is a visual
09:21:07 16 examination. In this type of case I am looking for any
09:21:10 17 solid material that I can directly remove from the item to
09:21:15 18 then test for controlled substances.

09:21:17 19 Q. Did you find any?

09:21:18 20 A. Yes. In this instance I found a minimal amount of
09:21:22 21 white powder, or off-white powder, on the inside of the
09:21:26 22 flap, and then another small amount within the bottom
09:21:30 23 interior of the pouch.

09:21:31 24 Q. Ms. Vo, if you could enlarge the bottom half of
09:21:35 25 government Exhibit 4C.

Brewer - direct

09:21:36 1

Whose handwriting is that Dr. Brewer?

09:21:42 2

A. That's my handwriting, and I took this photo.

09:21:44 3

Q. What are you pointing at?

09:21:46 4

A. As you can see, there is a small amount of white

09:21:49 5

material or off-white material that the arrow is pointing

09:21:52 6

to.

09:21:52 7

Q. And that's what you saw from your visual examination?

09:21:55 8

A. Yes.

09:21:57 9

Q. And did you see anything else in your visual

09:22:02 10

examination of the pouch?

09:22:04 11

A. Yes. So this picture shows the interior flap, but

09:22:09 12

also in the bottom, the bottom interior, I also saw similar

09:22:13 13

looking material.

09:22:14 14

Q. Could we go to the next page in Exhibit 4C?

09:22:19 15

So is the top another larger image of what we

09:22:23 16

saw, the material from the inside flap?

09:22:26 17

A. Yes, the top is an enlarged image of the previous

09:22:29 18

page.

09:22:29 19

Q. And if we could -- if you could enlarge, Ms. Vo, the

09:22:33 20

bottom half of 4C.

09:22:34 21

What's that?

09:22:36 22

A. So this is inside of the pouch in the bottom, you can

09:22:39 23

see a small amount of white or off-white solid material.

09:22:43 24

Q. Okay. So after visually identifying these two places

09:22:47 25

on the brown leather pouch where there was a small amount of

09:22:50 1 white material, what did you do?

09:22:52 2 A. So I used a metal spatula to remove a few particles
09:22:57 3 from both areas and I combined those particles into a test
09:23:01 4 tube for further testing.

09:23:03 5 Q. And then what did you do?

09:23:04 6 A. So I then dissolved these solid particles in a liquid
09:23:09 7 chemical known as methyl alcohol. Methyl alcohol would
09:23:13 8 dissolve most controlled substances that we would be
09:23:16 9 analyzing for.

09:23:17 10 Q. Once you dissolved it, what did you do?

09:23:19 11 A. The first instrumental exam I did was called direct
09:23:23 12 analysis, in real time, time of flight, mass spectrometry,
09:23:28 13 or DART for short.

09:23:30 14 Q. And can you explain how DART works?

09:23:36 15 A. DART is what's known as a mass spectrometer. So the
09:23:38 16 liquid sample will be volatilized into a gas state, formed
09:23:45 17 into an ion, or a charged particle, and traveled through the
09:23:48 18 mass spectrometer, where we would get what is known as a
09:23:52 19 mass discharge ratio. This mass discharge ratio can be used
09:23:57 20 to determine the chemical formulas of any compounds that
09:24:00 21 were present in the liquid, and became ionized and went
09:24:04 22 through the instruments.

09:24:05 23 Q. Do you know what that is, that mass discharge ratio
09:24:09 24 for instance, for cocaine?

09:24:10 25 A. So for instance, cocaine has a chemical formula that

Brewer - direct

09:24:14 1 consists of 17 carbons, 21 hydrogens, one nitrogen, and four
09:24:19 2 oxygen's. So when passed through this instrument, it should
09:24:23 3 give a peak of 304.154 for its mass discharge.

09:24:30 4 Q. So if the substance you're examining shows that mass
09:24:32 5 discharge, is that an indication of cocaine?

09:24:34 6 A. That's a presumptive indication that it could be
09:24:37 7 cocaine. The building blocks that I described that make up
09:24:40 8 cocaine also make up other compounds that are not cocaine.

09:24:43 9 Q. What did you do next?

09:24:44 10 A. So the next technique I did on that methyl alcohol
09:24:48 11 solution is called gas chromatography mass spectrometry, or
09:24:55 12 GCMS.

09:24:55 13 Q. And how did GCMS work?

09:24:58 14 A. The GCMS is basically two instruments coupled
09:25:03 15 together, the first instrument is the gas chromatograph, or
09:25:08 16 the GC, the solution that I talked about may contain a
09:25:11 17 mixture of the compounds, they're injected in the GC where
09:25:15 18 they're instantly converted to the gas phase and then they
09:25:18 19 travel through a 30-meter long column. This column has
09:25:22 20 what's known as a stationary phase on it and different
09:25:25 21 compounds will interact differently with that stationary
09:25:28 22 phase, so they will travel through the instrument in
09:25:30 23 different times.

09:25:31 24 So essentially, we get a, what's called a
09:25:37 25 chromatogram which shows various compounds coming through

Brewer - direct

09:25:39 1 the instrument at different times, so that piece of data is
09:25:42 2 called the chemicals retention time. And a particular
09:25:46 3 chemical will demonstrate a similar retention time each time
09:25:51 4 it goes through the instrument.

09:25:52 5 Q. And would a chemical that demonstrates a similar
09:25:55 6 time, for example, be cocaine?

09:25:56 7 A. Yes, time is one of the pieces of data, we will
09:26:00 8 compare our unknown material to a reference material of a
09:26:04 9 known substance, for example, cocaine.

09:26:05 10 Q. So based on these two tests, the DART and the GCMS,
09:26:10 11 after your visual examination, did you reach a conclusion
09:26:13 12 about the substance you were testing?

09:26:15 13 A. Yes. But I do have something to add for that
09:26:18 14 particular instrument.

09:26:19 15 Q. Sure. Go ahead.

09:26:20 16 A. So for the GCMS, what I described in the first part
09:26:24 17 is the GC. Once the compounds pass through the GC, they go
09:26:29 18 into the mass spectrometer, which is somewhat similar to the
09:26:33 19 DART that I described earlier, except that it's a higher
09:26:36 20 energy ion station, so the compound gets broken into its
09:26:40 21 building blocks in a repeatable manner, and they can use
09:26:44 22 that spectrum of how it's broke into its pieces to help
09:26:48 23 identify the material.

09:26:49 24 Q. Thank you for that clarification. Once you had done
09:26:51 25 all that, did you reach a conclusion?

Brewer - direct

09:26:53 1 A. Yes, I did.

09:26:54 2 Q. And what was your conclusion?

09:26:56 3 A. Cocaine was identified within the residual white
09:27:00 4 particles that I had sampled.

09:27:02 5 Q. Are there multiple forms of cocaine?

09:27:04 6 A. Yes, there are.

09:27:05 7 Q. And what are they?

09:27:07 8 A. Cocaine can exist as many drugs, in either its base
09:27:12 9 form or a salt form.

09:27:14 10 Q. And does what is commonly known as crack cocaine
09:27:17 11 present in one of those two forms?

09:27:18 12 A. Crack cocaine is a -- the base form of cocaine.

09:27:22 13 Q. Was the form of cocaine, whether cocaine base or
09:27:28 14 cocaine salt or hydrochloride, I think you said, determined
09:27:32 15 scientifically in this case?

09:27:34 16 A. No, it's not.

09:27:34 17 Q. Why is that?

09:27:35 18 A. Because I had such little material, I went straight
09:27:39 19 to extracting it in solution, and once I had that material
09:27:42 20 in solution, if it was a salt it would disassociate, so the
09:27:46 21 base of the salt can't be differentiated.

09:27:51 22 Q. Was the conclusion that cocaine was present in the
09:27:53 23 sample taken from the brown leather pouch memorialized in a
09:27:56 24 laboratory report?

09:27:58 25 A. Yes, it was.

Brewer - direct

09:27:59 1 Q. Did you prepare the report at or around the time near
09:28:02 2 your analysis?

09:28:03 3 A. Yes.

09:28:03 4 Q. Do you routinely prepare reports in the course of
09:28:07 5 regularly conducted examinations in controlled substances?

09:28:10 6 A. Yes I do.

09:28:11 7 Q. Is that a regular practice of yours required by the
09:28:17 8 FBI lab at Quantico?

09:28:17 9 A. Yes.

09:28:17 10 MR. WISE: At this time Your Honor, I would move
09:28:18 11 in admission government Exhibit 108.

09:28:22 12 MR. KOLANSKY: No objection.

09:28:23 13 THE COURT: Thank you. It's admitted.

09:28:25 14 (Exhibit No. 108 was admitted into evidence.)

09:28:26 15 BY MR. WISE:

09:28:27 16 Q. Do you see government Exhibit 108, Dr. Brewer?

09:28:30 17 A. Yes.

09:28:31 18 Q. And what's that?

09:28:32 19 A. That's the first page of the laboratory report.

09:28:34 20 Q. And is this the laboratory report you prepared?

09:28:38 21 A. Yes, it appears to be based on the item description,
09:28:41 22 the second page would have my name on it.

09:28:44 23 Q. Now, if we go to the, I believe it's the second page
09:28:50 24 under the title results of examination, what were the
09:28:55 25 results of the examination as reflected in this report?

Brewer - cross

09:28:59 1 A. So this summarizes the fact that cocaine was
09:29:02 2 identified within the Item 1 residue.

09:29:05 3 Q. And you said at the very beginning that Item 1 is the
09:29:08 4 brown leather pouch that has been marked, at least for
09:29:10 5 court, as government Exhibit 4; right?

09:29:13 6 A. Yes.

09:29:17 7 Q. Is cocaine a controlled substance?

09:29:22 8 A. Yes, it is.

09:29:23 9 MR. WISE: No further questions, Your Honor.

09:29:25 10 THE COURT: Thank you.

09:29:26 11 Cross-exam.

09:29:29 12 CROSS-EXAMINATION

09:29:34 13 BY MR. KOLANSKY:

09:29:44 14 Q. Good morning, Dr. Brewer.

09:29:45 15 A. Good morning.

09:29:46 16 Q. My name is David Kolansky, I am one of the counsel
09:29:49 17 for Hunter Biden. Good morning, ladies and gentlemen.

09:29:51 18 Dr. Brewer, you testified about residue that was
09:29:56 19 positive for trace amounts of cocaine, I believe your report
09:30:00 20 described it as a minimal amount; is that right?

09:30:02 21 A. I believe the term was residue, but yes.

09:30:05 22 Q. Residue, so a minimal amount of residue?

09:30:08 23 A. Yes.

09:30:09 24 Q. And that residue you said was combined when you did
09:30:13 25 your tests based on what was extracted from the pouch?

Brewer - cross

09:30:16 1 A. Yes, I combined the two areas that were shown in the
09:30:19 2 photo, I combined those into one sample.

09:30:23 3 Q. That residue that you collected, though, it was not a
09:30:26 4 lot of residue, it was minimal?

09:30:29 5 A. Correct.

09:30:29 6 Q. And that came from the pouch -- if I may, do you have
09:30:35 7 the pouch?

09:30:37 8 MR. KOLANSKY: May I approach, Your Honor?

09:30:39 9 THE COURT: You may.

09:30:41 10 BY MR. KOLANSKY:

09:30:41 11 Q. So this is the pouch that you tested?

09:30:53 12 A. Yes.

09:30:53 13 Q. This was the pouch and it was collected in October,
09:30:56 14 from your investigation, it was collected in October of
09:31:00 15 2018, is that right?

09:31:00 16 A. I am not aware of those details, I can speak to when
09:31:04 17 I received it.

09:31:04 18 Q. And you received it in October of 2023?

09:31:06 19 A. Yes, sir.

09:31:07 20 Q. So if this investigation began in October of 2018,
09:31:13 21 and you received this pouch in October of 2023, that would
09:31:18 22 be five years between the time that it was first collected
09:31:23 23 and when you received it; is that right?

09:31:24 24 A. Yes, based on those dates, that would be five years.

09:31:27 25 Q. When you received the pouch in October of 2023, to

09:31:33 1 put that in sequence, that's after the charges were filed in
09:31:37 2 this case; is that right?

09:31:38 3 A. I am not aware of those timelines.

09:31:41 4 Q. Do you know when the charges were filed in this case?

09:31:44 5 A. No.

09:31:45 6 Q. But you know that after you received the pouch, it
09:31:49 7 had been requested by investigators in the course of this
09:31:52 8 investigation?

09:31:53 9 A. Yes. Generally we don't receive items until there is
09:31:56 10 a case that has been opened.

09:31:58 11 Q. So you don't know, for example, if this case was
09:32:01 12 charged in September or August or October?

09:32:04 13 A. No, sir.

09:32:08 14 Q. When you received this pouch and you took the
09:32:11 15 evidence from it, you took the residue from it, excuse me,
09:32:15 16 there were no tests done on that residue prior to you having
09:32:18 17 received it?

09:32:19 18 A. None that I'm aware of.

09:32:20 19 Q. And no tests were done on the pouch itself prior to
09:32:23 20 when you had received it, there was nothing to go off of, is
09:32:27 21 that right?

09:32:27 22 A. Can you rephrase that, please?

09:32:29 23 Q. Yes, sure. So when you received the pouch and you
09:32:32 24 collected the residue, from your investigation, your test
09:32:36 25 was the first test that was done on that residue sample, is

09:32:41 1 that correct?

09:32:41 2 A. To my awareness, yes.

09:32:44 3 Q. When you collected the residue, tested the sample,
09:32:49 4 tested positive for trace amounts, I think minimal amounts
09:32:55 5 of cocaine, is that right?

09:32:55 6 A. Yes, residue.

09:32:55 7 Q. Your tests, though, they don't indicate when that
09:32:58 8 residue got on this pouch, do they?

09:33:01 9 A. They do not.

09:33:02 10 Q. They don't indicate who put that residue on this
09:33:05 11 pouch or when that residue was put there?

09:33:07 12 A. That is correct.

09:33:07 13 Q. And they certainly don't indicate how long the
09:33:11 14 residue had been on the pouch?

09:33:14 15 A. That's correct.

09:33:14 16 Q. It could have been 2015?

09:33:16 17 A. Any time before when I analyzed it.

09:33:18 18 Q. '16?

09:33:19 19 A. Yes, sir.

09:33:20 20 Q. '17?

09:33:20 21 A. Correct.

09:33:21 22 Q. Even 2018?

09:33:23 23 A. Sure.

09:33:24 24 Q. But as far as you know, you can't date when that
09:33:27 25 residue got there or who put it there?

- 09:33:30 1 A. I cannot.
- 09:33:35 2 Q. And so I think you would agree that in your line of
- 09:33:39 3 work, chain of custody analysis is an important piece of
- 09:33:45 4 evidentiary testing, is that a fair assessment?
- 09:33:48 5 A. Yes, chain of custody is very important.
- 09:33:50 6 Q. And sample integrity from what comes from that pouch
- 09:33:55 7 or that piece of evidence is also important; right?
- 09:33:58 8 A. In terms of chain of custody, is that what you mean
- 09:34:01 9 by sample integrity?
- 09:34:04 10 Q. Yes.
- 09:34:04 11 A. Yes.
- 09:34:05 12 Q. And it's something that's routinely done in your line
- 09:34:08 13 of work in forensic toxicology and chemistry, is that fair?
- 09:34:13 14 A. Do you mean maintaining the chain of custody?
- 09:34:17 15 Q. I mean testing the chain of custody or analyzing the
- 09:34:20 16 chain of custody.
- 09:34:23 17 A. We are required to maintain an accurate chain of
- 09:34:26 18 custody, I wouldn't say I analyze it or test it.
- 09:34:29 19 Q. But in this case, when you received the pouch, no one
- 09:34:33 20 asked you to do fingerprint testing on this pouch, only to
- 09:34:38 21 test the residue, is that right?
- 09:34:39 22 A. This came into the laboratory as what's called a
- 09:34:42 23 single unit submission, so it came in strictly for chemistry
- 09:34:46 24 exam.
- 09:34:47 25 Q. I understand.

Brewer - cross

09:34:47 1 So you tested the residue that you would collect
09:34:51 2 from this pouch and that's it?

09:34:53 3 A. Correct.

09:34:54 4 Q. Not the pouch itself, not the fingerprints, not the
09:34:56 5 DNA that might have been on this pouch?

09:34:59 6 A. Those are outside my area of expertise.

09:35:02 7 Q. But you wouldn't know from your testing who had
09:35:05 8 handled this pouch, before, how long, how many people, you
09:35:09 9 wouldn't know that?

09:35:09 10 A. No, chemistry exams do not determine that.

09:35:12 11 Q. And so, in your test, you can't tell when the residue
09:35:24 12 got on here, who put it there, how long it had been there or
09:35:28 13 who handled that?

09:35:30 14 A. Correct.

09:35:30 15 Q. And that's because it's not possible from your tests?

09:35:33 16 A. Correct, my testing is limited to chemistry.

09:35:36 17 MR. KOLANSKY: Thank you, Dr. Brewer. No
09:35:38 18 further questions.

09:35:38 19 THE COURT: Thank you.

09:35:39 20 Any redirect.

09:35:40 21 MR. WISE: No, Your Honor. Thank you.

09:35:42 22 THE COURT: All right. Thank you, sir, you may
09:35:44 23 step down.

09:35:45 24 Mr. Hines, what's next.

09:35:46 25 MR. HINES: The United States calls Special

Romig - direct

09:35:50 1 Agent Joshua Romig.

09:35:59 2 COURTROOM DEPUTY: Please raise your right hand.

09:36:03 3 Please state and spell your full name for the record.

09:36:16 4 THE WITNESS: Joshua Romig, R-O-M-I-G.

09:36:23 5 JOSHUA ROMIG, having been duly sworn, was

09:36:28 6 examined and testified as follows:

09:36:30 7 DIRECT EXAMINATION

09:36:31 8 BY MR. HINES:

09:36:37 9 Q. Good morning, sir.

09:36:38 10 A. Good morning.

09:36:39 11 Q. Sir, where do you work?

09:36:41 12 A. For the Drug Enforcement Administration in

09:36:43 13 Philadelphia, Pennsylvania.

09:36:45 14 Q. What is your title?

09:36:46 15 A. I am currently the Assistant Special Agent in charge.

09:36:49 16 Q. How long have you served with the DEA?

09:36:51 17 A. Since 2008.

09:36:53 18 Q. What are the various titles you have had over that

09:36:56 19 course of time?

09:36:56 20 A. With the DEA?

09:36:58 21 Q. Yes, sir?

09:36:58 22 A. I was a Special Agent, when I got hired, we're all

09:37:02 23 Special Agents, and then in 2018, I got promoted to group

09:37:11 24 supervisor of a group in Philadelphia, and then for about a

09:37:11 25 year before I did my headquarters time, I was the resident

Romig - direct

09:37:15 1 agent in charge in Allentown, Pennsylvania.

09:37:17 2 Q. How about prior law enforcement experience before you
09:37:21 3 got into the DEA?

09:37:21 4 A. I started my law enforcement career in 1999, in the
09:37:25 5 Baltimore City Police Department, I was a patrol officer,
09:37:28 6 and then assigned to the patrol division, I should say, and
09:37:31 7 then I was a Berks County Detective assigned to the
09:37:34 8 narcotics unit there for about seven years.

09:37:37 9 Q. In Berks County, Pennsylvania?

09:37:39 10 A. In Reading, Pennsylvania, yes, sir.

09:37:41 11 Q. During the course of your, what is that, 24-year
09:37:46 12 career with law enforcement?

09:37:47 13 A. It will be 25 in August.

09:37:48 14 Q. Have you investigated narcotic offenses sort of
09:37:53 15 throughout that time period?

09:37:54 16 A. Primarily over that 25 years, that's what I have
09:37:56 17 done.

09:37:57 18 Q. What kind of experience have you obtained during the
09:38:00 19 course of investigating narcotics offenses over that time
09:38:05 20 period?

09:38:06 21 A. That's an interesting -- I mean that's literally all
09:38:10 22 I've done for the last quarter century, even in the patrol
09:38:14 23 division in Baltimore, one of my primary duties was to
09:38:18 24 investigate drug offenses, I was assigned to the Northwest
09:38:23 25 District, which is, the general area is Park Heights,

Romig - direct

09:38:27 1 Pimlico Raceway, the Preakness, and very high drug
09:38:30 2 distribution area back then, open air drug markets, guys
09:38:34 3 selling on the street, open air hand to hand, so one of my
09:38:38 4 duties was to investigate drug crimes even as a uniformed
09:38:43 5 Patrolman. Even in the patrol division, I had the
09:38:45 6 opportunity to work in a plain clothes capacity, also in an
09:38:49 7 undercover capacity to purchase drugs as, I was pretending
09:38:54 8 to be a drug user. And then once I left the Baltimore
09:38:59 9 Police Department, and got hired by the Berks County
09:39:02 10 District Attorney's office, my primary function in the drug
09:39:04 11 unit there, was to investigate drug crimes.

09:39:07 12 I did that for over five of the years that I was
09:39:13 13 assigned to the DA's office, was just investigate drug
09:39:17 14 trafficking offenses. I was very briefly assigned to the
09:39:21 15 warrant unit before I got hired by DEA, because my boss
09:39:25 16 didn't want me to get involved in anymore court cases
09:39:28 17 because he knew I was leaving. And then since I have been a
09:39:33 18 DEA agent, the only thing, we're a single mission agency,
09:39:37 19 all we do is investigate drug trafficking. There are
09:39:40 20 nuances to those drug trafficking cases, we investigate
09:39:45 21 money laundering when it comes to drugs, we investigate some
09:39:49 22 firearm offenses when it comes to drug traffickers, theft of
09:39:49 23 firearms, but my primary responsibility is to investigate
09:39:54 24 drug trafficking.

09:39:54 25 Q. During the course of that experience, have you

Romig - direct

09:39:56 1 investigated both small scale drug trafficking and large
09:40:00 2 scale drug trafficking?

09:40:01 3 A. Over the last 25 years both, certainly, I mean, the,
09:40:05 4 I will say the more my career has progressed, especially
09:40:10 5 with DEA, we want to target the higher level drug
09:40:15 6 traffickers with the Drug Enforcement Administration, we
09:40:18 7 don't want to target smaller level distributors.

09:40:21 8 Q. During the course of those investigations, do you
09:40:24 9 often have to start off the small scale level and work your
09:40:28 10 way up within an organization to get to the top?

09:40:30 11 A. Yes, very rarely, unless you have a highly placed
09:40:34 12 informant or some other method to start big. Typically you
09:40:38 13 will have to start on a smaller scale, and I have had the
09:40:42 14 ability or the -- I have had to do that numerous times,
09:40:49 15 especially in New York when I first started, I was assigned
09:40:51 16 to the New York Division, and then moving on to Allentown,
09:40:55 17 Pennsylvania when I left New York, I had to start with some
09:40:58 18 smaller purchases and then work my way up to federal wire
09:41:02 19 taps on bigger targets.

09:41:03 20 Q. Is the goal to work your way up to disrupt and
09:41:06 21 dismantle the ultimate source of supply?

09:41:09 22 A. Yes, always.

09:41:10 23 Q. During the course of your investigations, have you
09:41:13 24 had the occasion to interview arrestees, confidential
09:41:18 25 sources, and individuals who are using or purchasing

Romig - direct

09:41:20 1 narcotics?

09:41:21 2 A. Yes. Over the last 25 years, or almost 25 years,
09:41:25 3 that's primarily been one of my main functions.

09:41:28 4 Q. Have you reviewed messages, electronic evidence,
09:41:33 5 phone messages, things of that nature by individuals who use
09:41:38 6 narcotics or seek to purchase them?

09:41:40 7 A. Yes.

09:41:40 8 Q. And during the course of that experience, have you
09:41:43 9 learned the language in which drug users and drug addicts
09:41:47 10 speak with drug sellers to communicate about purchasing
09:41:51 11 drugs?

09:41:52 12 A. Yes.

09:41:52 13 Q. Have you previously been qualified as an expert in
09:41:55 14 the field of drug trafficking and coded language?

09:41:59 15 A. I have.

09:41:59 16 Q. In which courts have you been qualified as an expert
09:42:03 17 to the best you can recall?

09:42:04 18 A. Yeah, so I was qualified as an expert for the first
09:42:07 19 time in the Circuit Court of Maryland, which is the, we're
09:42:12 20 not in Pennsylvania, we're in Delaware, disregard, Circuit
09:42:16 21 Court of Maryland I was qualified in a crack cocaine case,
09:42:19 22 again, as I described earlier where I was also actually the
09:42:22 23 affiant in that case, the investigating agent, I was in
09:42:26 24 uniform, but hiding out in an abandoned house watching a guy
09:42:32 25 sell crack cocaine, doing hand to hand with users, I

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09:42:35 1 testified as an expert and gave an opinion of whether the
09:42:38 2 drugs we seized from him were for the purpose of delivering
09:42:42 3 the drugs or for the purposes of using the drugs and that
09:42:45 4 was again, Circuit Court of Maryland, probably 2001.

09:42:49 5 Q. Since that time, and I don't mean to interrupt,
09:42:52 6 moving forward, have you been qualified on a number of
09:42:54 7 occasions?

09:42:55 8 A. Common Pleas Court, which is the equivalent of
09:42:59 9 Circuit Court in Pennsylvania, the Circuit Court of
09:43:01 10 Maryland, the Common Pleas Court of Pennsylvania, numerous
09:43:05 11 times as an expert witness to render opinions as to whether
09:43:08 12 drugs were possessed for purpose of selling them, or for the
09:43:13 13 purpose of using them.

09:43:14 14 And then I was qualified as an expert in New
09:43:17 15 York in a grand jury proceeding, I was qualified in a
09:43:21 16 special narcotic court proceeding, I was qualified as an
09:43:24 17 expert in Federal Court, in Philadelphia, in the Eastern
09:43:27 18 District of Pennsylvania several times, I was qualified as
09:43:29 19 an expert in coded language and drug money laundering in
09:43:33 20 this district, in Wilmington, in Federal Court in this
09:43:37 21 building two years ago, maybe a little less than two years
09:43:42 22 ago. And I think that's it.

09:43:48 23 Q. Okay.

09:43:48 24 MR. HINES: At this time, Your Honor, we offer
09:43:50 25 Special Agent Romig as an expert in the manner and means of

Romig - direct

09:43:53 1 drug trafficking and coded language.

09:43:55 2 MR. LOWELL: No objection.

09:43:57 3 THE COURT: Thank you. He will be recognized as
09:44:00 4 an expert.

09:44:00 5 BY MR. HINES:

09:44:01 6 Q. Agent Romig, I would like to start by asking you some
09:44:04 7 general questions about the drug trade. Based on your
09:44:07 8 training and experience, can you please describe how
09:44:10 9 generally the drug product like cocaine makes its way into
09:44:14 10 the United States and gets to the distributors?

09:44:18 11 A. If you're saying specifically cocaine --

09:44:20 12 MR. LOWELL: Your Honor, I object, can we go to
09:44:22 13 side-bar?

09:46:08 14 (Side-bare discussion.)

09:46:08 15 MR. LOWELL: Your Honor, the reason that I am
09:46:08 16 objecting is that I don't understand the relevance of -- if
09:46:08 17 it is relevant beyond its prejudice versus probative value
09:46:08 18 of having long testimony about how cocaine is grown,
09:46:08 19 processed, distributed -- shipped into the United States, I
09:46:08 20 mean, that's not what this case is about. He's talked about
09:46:08 21 his purpose is to stop distribution. We don't have any
09:46:08 22 objection to the idea that he can interpret texts or
09:46:08 23 messages, but the idea that we're now going to take a long
09:46:08 24 road from how it's grown to how it's produced to how it's
09:46:08 25 brought in the United States, I don't see the relevance in

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09:46:08 1 the case.

09:46:08 2 MR. HINES: It's not going to be a long road,
09:46:08 3 I'm merely establishing if the jury understands what cocaine
09:46:08 4 is and generally where it comes from to get to its source
09:46:08 5 distribution points, and that forms the basis for Mr. Romig
09:46:08 6 to testify about how he knows what the drugs are and how the
09:46:08 7 language works in the drug trade so he can give an opinion
09:46:08 8 to the messages which I seek to put up. This won't be a
09:46:08 9 long road.

09:46:08 10 MR. LOWELL: Ten feet, 2 miles, what's the
09:46:08 11 length of the road?

09:46:08 12 MR. HINES: Not as long as the roads you travel,
09:46:08 13 Mr. Lowell.

09:46:08 14 MR. LOWELL: Well, that's very -- okay. I just
09:46:08 15 want to see. I may object if it goes longer, but
09:46:08 16 understanding that, let's go.

09:46:08 17 (End of side-bar.

09:46:12 18 BY MR. HINES:

09:46:12 19 Q. Agent Romig, I'll re-ask the question. Could you
09:46:16 20 briefly describe how, where cocaine originates and then
09:46:20 21 ultimately how it gets to a state like Delaware or
09:46:23 22 California?

09:46:23 23 A. Sure. So cocaine is different from the other drugs,
09:46:27 24 in that it's produced primarily in the South American Andean
09:46:33 25 region, which is Columbia, Peru, the countries in South

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09:46:37 1 America. And then it is transported numerous ways. The
09:46:45 2 main method of transportation is through Mexico. The
09:46:48 3 Mexican Cartels control transportation as they have for
09:46:51 4 years. And it will be transported across our land, southern
09:46:56 5 boarder. That's the main method. There are dozens of other
09:47:00 6 methods where cocaine, how it gets here from Columbia,
09:47:03 7 including airplanes, through the Caribbean corridor, also
09:47:09 8 ships, container ships through Ecuador and the Dominican
09:47:13 9 Republic, but again the primary method is across our
09:47:17 10 southern boarder through Mexico.

09:47:19 11 Q. Why is there a demand for it in the United States?

09:47:22 12 A. That's an interesting question. We have a lot of
09:47:24 13 cocaine users in the United States, so Colombians and
09:47:32 14 Peruvians continue to produce it and the distributors
09:47:34 15 continue to sell it, it's basic economics, it's no different
09:47:38 16 than any other product, anything that there is demand for,
09:47:40 17 the distributors will find a way to distribute it to make
09:47:44 18 money.

09:47:44 19 Q. And what is crack cocaine?

09:47:46 20 A. Crack cocaine is cocaine. There is really only a
09:47:51 21 level difference on chemistry, it's a more easily smokeable
09:47:56 22 form of cocaine and it's actually -- it's actually cocaine
09:48:00 23 based, so it's a more pure form of cocaine powder. Cocaine
09:48:06 24 powder, which is how the cocaine is transported to the
09:48:09 25 United States, cocaine hydrochloride, when you -- you can

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09:48:14 1 cut cocaine, as distributors typically do, to make more
09:48:18 2 money on their product, they add adulterants to it or other
09:48:25 3 products to it. One of the more common products that they
09:48:27 4 add to make more of it, to make more money, is an inositol
09:48:31 5 which is a dietary supplement. If you cook it to make it
09:48:35 6 into a crack cocaine the inositol actually falls to the
09:48:40 7 bottom and wouldn't stick to the crack cocaine. An example,
09:48:42 8 if you have an ounce, 28.35 grams of powdered cocaine and
09:48:49 9 you cook that into crack, if there is inositol or another
09:48:54 10 nonactive, or noncontrolled substance or ingredient that's
09:48:56 11 cut there, you will lose that product. So if the drug
09:48:59 12 dealer had cut his cocaine powder with three grams of
09:49:03 13 inositol, when you cook it into crack, you'll only have like
09:49:09 14 25 grams of crack, you wouldn't have a full ounce. That's a
09:49:12 15 long winded way of explaining that, but that's the best I
09:49:15 16 can do.

09:49:15 17 Q. Now, do agents routinely consult you for interpreting
09:49:20 18 electronic messages, texts, things of that nature in
09:49:24 19 connection with their drug investigation?

09:49:26 20 A. Yes. My primarily, when I started with DEA, one of
09:49:30 21 the ways that we use to be able to target higher level
09:49:35 22 violators was through wire taps. So for nine years as a
09:49:40 23 working Special Agent with the DEA in New York and
09:49:42 24 Allentown, my primary function was to conduct wire tap
09:49:47 25 investigations. So I have literally listened to thousands

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09:49:50 1 and thousands and thousands of calls, intercepted calls
09:49:53 2 between buyers and sellers, and then looked at or reviewed
09:50:00 3 thousands of text messages, WhatsApp messages, again,
09:50:07 4 between buyers and sellers.

09:50:08 5 Q. So wire taps occur when law enforcement is actively
09:50:13 6 investigating an individual as they're committing the crime,
09:50:17 7 is that right?

09:50:17 8 A. It can, yes.

09:50:18 9 Q. Are there cases in which you review or testify where
09:50:22 10 you are sort of looking back, looking back at a set of data
09:50:25 11 like messages from someone's phone without the benefit of a
09:50:28 12 wire tap at that time?

09:50:30 13 A. Yes. I mean, again, before -- sorry to cut you off.
09:50:34 14 Before conducting dozen of federal wire taps when I was a
09:50:40 15 County Detective, I had the ability to participate in state
09:50:43 16 wire tap investigations, but I also had the ability to
09:50:46 17 download defendant's cell phones, look at defendant's cell
09:50:50 18 phones upon arrest, and you know, again, interpret codes and
09:50:54 19 language, you know, intricate codes, rudimentary codes, yes.

09:50:59 20 Q. So in those instances, when you're looking back, do
09:51:03 21 you only have the benefit of what is actually written out in
09:51:06 22 the form of a message usually?

09:51:09 23 A. I mean, sometimes there is some context if I was able
09:51:12 24 to interview the defendant, if I was able to interview
09:51:16 25 somebody who knew the defendant, like an informant who could

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09:51:20 1 help with the coded language. Sometimes there is none of
09:51:22 2 that at all, and all you have to go on is the messages.

09:51:25 3 Q. And does that, in cases in which you reviewed, are
09:51:30 4 there sometimes gaps in messages with where a person, a
09:51:34 5 target, a defendant isn't actually communicating by written
09:51:37 6 message during a period of time?

09:51:38 7 A. Of course, especially this day and age, there is so
09:51:44 8 many different applications that people use, so it's
09:51:48 9 sometimes frustrating for law enforcement, but there is --
09:51:51 10 you know, there is standard text messages, SMS, there is
09:51:56 11 iMessages, there is WhatsApp, there is Signal, there is
09:51:59 12 Telegram, there is Serena, so many telecommunications
09:52:03 13 platforms, and if a user switches to a different platform,
09:52:06 14 you're not going to have those communications sometimes.

09:52:09 15 Q. Do some of those platforms have end to end encryption
09:52:12 16 where the communications are not preserved?

09:52:15 17 A. They do.

09:52:16 18 Q. In this case, first of all, did you have any personal
09:52:19 19 involvement in the investigation of the defendant, Robert
09:52:22 20 Hunter Biden?

09:52:22 21 A. None whatsoever.

09:52:23 22 Q. Were you consulted as you are in other cases to
09:52:26 23 review a summary chart of some text messages that you
09:52:30 24 understand were on the defendant's electronic devices?

09:52:34 25 A. Yes.

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09:52:34 1 Q. I'm going to show you was been marked as government
09:52:39 2 Exhibit 18, and we're going to go through some of those
09:52:42 3 messages that have been read into the record previously but
09:52:46 4 without the benefit of interpretation.

09:52:48 5 If you could please go and look at this first
09:52:50 6 string of messages, the one I'm going to ask you about
09:52:53 7 specifically is Row 3, but there is some context around that
09:52:57 8 that I would like you to indicate for us, Mr. Romig, if it
09:53:03 9 helps to interpret it. The message on Row 3 says "if you
09:53:06 10 can be here by 6:45, I can do another 1.4 on top what you
09:53:13 11 owe", looks like a typo, top of what you owe, from Mr. Biden
09:53:19 12 to Clifford O'Brien. Do you see that message there?

09:53:22 13 A. Yes.

09:53:23 14 Q. Based on your training and experience, do you have an
09:53:26 15 opinion as to what 1.4 means and what this message means?

09:53:31 16 A. Yeah, but just to be clear -- yes, but just to be
09:53:35 17 clear, not just based on this message independent of
09:53:37 18 anything else, it's based on my review of all of the
09:53:41 19 testimony, all of the messages, and based on that, this
09:53:46 20 message and the messages that precede it, I would say that
09:53:50 21 he's asking for another 1.4 grams on top of whatever O'Brien
09:53:56 22 is bringing, or whoever is running for O'Brien, is bringing.

09:53:59 23 Q. Turning to row-- well, you said 1.4 grams. Is grams
09:54:05 24 a weight or a term used in drug trafficking?

09:54:09 25 A. Yes. So it is, yes. So it's a little confusing in

Romig - direct

09:54:13 1 the United States because the traffickers like I said, the
09:54:17 2 producers are from South America, the traffickers are from
09:54:21 3 Mexico, so there are two different measuring systems that
09:54:24 4 we're using obviously, there is kilograms and pounds.
09:54:28 5 However, to make it more easily understandable, a dime bag,
09:54:33 6 a \$10 bag of crack cocaine is typically around a 10th of a
09:54:38 7 gram of crack cocaine, which is one hit, that's one dosage
09:54:43 8 unit of crack cocaine. So if somebody is on the street and
09:54:45 9 wants to get high and has \$10, they'll buy a \$10 bag. So
09:54:51 10 1.4 grams would be the equivalent of about 14 dime bags of
09:54:55 11 crack cocaine. Obviously, just like any other product, if
09:54:58 12 you buy in bulk, the price is going to come down, the more
09:55:01 13 you buy, the price gets cheaper. The smaller dosage units
09:55:06 14 you buy, the more expensive it's going to be.

09:55:08 15 Q. And the follow-up message here on Row 4 to that
09:55:14 16 message when Mr. O'Brien says "I'm stuck in traffic, bro,
09:55:20 17 with all your shit, ha, ha, ha, ha, ha", did that inform
09:55:24 18 your understanding of the 1.4 in the prior message?

09:55:27 19 A. That to me would mean he's on the highway with all
09:55:30 20 the product in the car.

09:55:31 21 Q. Turning to Rows 20 and 21. Were you asked to look at
09:55:36 22 the images that are in Rows 20, 21, that Clifford O'Brien
09:55:42 23 exchanged with Hunter Biden and that Hunter Biden exchanged
09:55:44 24 with Clifford O'Brien?

09:55:46 25 A. Yes.

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09:55:46 1 Q. And did you see the title on the photograph in Row 21
09:55:51 2 in which Mr. -- the defendant sent Clifford O'Brien?

09:55:55 3 A. Yes.

09:55:56 4 Q. And what does that title say, can you see it?

09:55:59 5 A. Yes, which under any value known to any market in the
09:56:04 6 world, what I paid is 60 percent greater.

09:56:06 7 Q. What do you see in the photographs here, based on
09:56:09 8 your training and experience?

09:56:10 9 A. I mean, I see what appears to be crack cocaine.
09:56:13 10 Again just to be clear, could be compressed powder, again,
09:56:17 11 cocaine comes into this country, they press it into kilogram
09:56:21 12 bricks, they can press it into a million things based on how
09:56:26 13 it's hidden, it can be hidden in tires, car parts, I have
09:56:31 14 seized 150 kilograms hidden in fake bananas, plantains, in a
09:56:37 15 55,000 pound shipping container, it can be hidden inside
09:56:40 16 anything. But typically the cocaine powder is pressed into
09:56:44 17 kilogram bricks with hydraulic presses. Even when the coke
09:56:48 18 gets here, typically dealers can repress it once it's cut
09:56:52 19 like we talked about with the inositol, it can be repressed
09:56:56 20 to appear that it hasn't been tampered with for
09:57:01 21 distribution. When it's pressed, the powder, not crack, but
09:57:04 22 cocaine hydrochloride, cocaine powder is pressed into a
09:57:08 23 brick, it appears very similar to crack, this to me looks
09:57:11 24 like crack, but without the chemistry knowledge, it could
09:57:15 25 also be pressed cocaine off of a brick of cocaine, but

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09:57:18 1 again, it appears to be cocaine.

09:57:20 2 Q. In the second image that the defendant sent, is there
09:57:23 3 a digital scale in the background?

09:57:26 4 A. There is.

09:57:26 5 Q. Are digital scales used by drug purchasers and drug
09:57:30 6 sellers?

09:57:30 7 A. Yes.

09:57:31 8 Q. Why are digital scales used?

09:57:33 9 A. To verify that the person paying for the product got
09:57:37 10 what they paid for.

09:57:37 11 Q. When Mr. Biden says "which under any value known to
09:57:42 12 any market in the world, what I paid is 60 percent greater",
09:57:45 13 based on your training and experience, do you have an
09:57:46 14 understanding or an opinion about what he's talking about
09:57:48 15 there?

09:57:49 16 A. I do, the person that sent that message is clearly
09:57:52 17 upset that the amount is a lot smaller than what he paid
09:57:55 18 for, only 4.7 grams it appears by the scale.

09:57:59 19 Q. Based on the arithmetic that you were doing earlier,
09:58:02 20 as far as a tenth of a gram being a hit, roughly how many
09:58:07 21 uses is 4.7 grams for a user?

09:58:09 22 A. Mr. Hines, don't ask me to do math, I'm sorry, it's
09:58:13 23 4.7 times .1, I would need a calculator for it. 3.5 grams
09:58:19 24 is commonly referred to as an 8-Ball on the street, an
09:58:23 25 eighth of an ounce, when I was doing undercover or using

Romig - direct

09:58:27 1 CI's, an eighth of an ounce varied for \$120 all the way up
09:58:32 2 to \$220 based on the buyer/seller relationship.

09:58:35 3 Q. Directing your attention to the rows 27 and 28, and
09:58:40 4 there is surrounding messages here, actually let's go to the
09:58:46 5 previous page, please. The defendant says "come get, how
09:58:54 6 much I owe? Can you get baby powder?" On the following
09:58:58 7 page says "the really soft stuff." Based on your training
09:59:01 8 and experience, do you have an opinion on what the coded
09:59:04 9 language is that we see in this messages?

09:59:06 10 A. Yes. They're asking for powdered cocaine, not crack
09:59:11 11 cocaine.

09:59:11 12 Q. And as you testified earlier, powdered cocaine can be
09:59:15 13 cooked into crack cocaine; is that right?

09:59:17 14 A. Correct, very easily, baking soda, water, heat.

09:59:20 15 Q. And the date of this message, is that May 6, 2018, on
09:59:25 16 the bottom there, do you see that May 6, 2018?

09:59:28 17 A. It is. May 5th is the first message and then May 6th
09:59:33 18 is the second.

09:59:34 19 Q. Thank you. "Really soft stuff", does that also
09:59:37 20 inform your interpretation?

09:59:39 21 A. Yes, he's asking for cocaine powder, again, this is a
09:59:42 22 rudimentary pretty standard code.

09:59:47 23 Q. Turning next to Row 32, actually Row 31. The word
09:59:57 24 "party favor" is used there from the defendant to an
10:00:00 25 individual named Vladimir Peteov, as stated in his contacts,

Romig - direct

10:00:07 1 do you have an opinion based on your training and experience
10:00:09 2 as to what "party favor" is a reference to?

10:00:11 3 A. Generally drugs, but if this is buyer/seller
10:00:16 4 dependent, generally drugs, I can't tell you whether it's
10:00:21 5 cocaine, crack cocaine, but just generally drugs. That's
10:00:24 6 going to be based on whatever the relationship was between
10:00:27 7 the buyer and seller prior to this message, or prior to the
10:00:30 8 last time that they met or did some sort of deal, drug deal.

10:00:35 9 Q. Now, I would like to turn to Rows 74 to 80, please.
10:00:42 10 The series of messages that the jury has seen between
10:00:45 11 someone named Michael and the defendant, do you see where it
10:00:49 12 starts, "you want ten grams", in the middle of the page?

10:00:52 13 A. Yes.

10:00:52 14 Q. Again, grams is a language in the drug trade used
10:00:58 15 about the weight of the drug, right?

10:00:59 16 A. Yeah, again, based on all the other messages and my
10:01:03 17 review of the testimony, I would say this is either ten
10:01:06 18 grams of crack, cocaine base, or cocaine powder.

10:01:10 19 Q. You said in review of the testimony, have you been
10:01:12 20 listening to some of the testimony during this trial?

10:01:14 21 A. I have, been on the third floor in the overflow room
10:01:19 22 watching on a closed circuit.

10:01:21 23 Q. Does the language in which those witnesses have
10:01:24 24 spoken inform the basis of your testimony here today as well
10:01:30 25 in addition to your experience?

Romig - direct

10:01:30 1 A. Yes, and the review of all the messages.

10:01:33 2 Q. You heard, for example, Zoe Kestan testify in this
10:01:37 3 case?

10:01:37 4 A. I did.

10:01:39 5 Q. And this message is in July of 2018, correct, the end
10:01:43 6 of July, July 25th?

10:01:45 7 A. July 25th, 2018, all three of these messages.

10:01:49 8 Q. If you look at the following page, when after the
10:01:53 9 defendant says "Y" do you understand "Y" to be a reference
10:02:01 10 to yes?

10:02:01 11 A. Yes. Yes and yes.

10:02:03 12 Q. At the bottom of the page, Michael tells the
10:02:06 13 defendant "he said 600". Do you have an opinion as to what
10:02:10 14 he's referencing?

10:02:11 15 A. \$600 for the ten grams.

10:02:13 16 Q. Is that about the fair market value of cocaine or
10:02:19 17 crack cocaine around July of 2018?

10:02:22 18 A. I think it's pretty significantly higher than the
10:02:24 19 fair market value, but again, those are based on
10:02:29 20 buyer/seller relationships. I can give you plenty of
10:02:31 21 examples of where I would make an undercover purchase or I
10:02:34 22 would have a CI make a purchase, a confidential informant
10:02:38 23 make a purchase, and we go to the same dealer on the same
10:02:42 24 day and a different confidential source, or a different
10:02:47 25 undercover would get the product for a lot more, or a lot

Romig - direct

10:02:50 1 less, that's based on a seller buyer relationship.

10:02:53 2 Q. Based on your experience, do the sellers size up the
10:02:57 3 client or customer and see what they might be willing to pay
10:02:59 4 for the product?

10:03:00 5 A. 100 percent, that's what happens, like any other
10:03:03 6 sale, drugs are no different.

10:03:04 7 Q. Turning to Row 87, the defendant says "I need more
10:03:13 8 chore boy, but regardless come back and yes". What is chore
10:03:17 9 boy?

10:03:17 10 A. It's a -- it's a scouring pad, so it's the pieces of
10:03:24 11 the scouring pad that are used as a filter for the pipe, for
10:03:28 12 a crack pipe, or a meth pipe, or you know --

10:03:32 13 Q. Is that common?

10:03:33 14 A. Yes, very common.

10:03:35 15 Q. Turning to Rows 172 to 181, someone asked the
10:03:43 16 defendant "what did you need", on that first row. And then
10:03:47 17 there is a series of text messages and then the defendant
10:03:50 18 responds "ounce", is ounce another term used in the drug
10:03:56 19 trade?

10:03:56 20 A. Yeah, that's just based on the difference between our
10:04:00 21 measuring systems, but an ounce is 28.35 grams, and it's one
10:04:05 22 of the most commonly distributed quantities of cocaine and
10:04:10 23 crack cocaine.

10:04:11 24 Q. And this message is in November of 2018, correct?

10:04:14 25 A. Correct, November 27th, 2018.

Romig - direct

10:04:17 1 Q. Turning to the following page, an individual says
10:04:26 2 "it's only going to be 1450 instead of the 16", what did you
10:04:30 3 understand that to mean based on your training and
10:04:32 4 experience?

10:04:32 5 A. \$1,450.

10:04:37 6 Q. Instead of \$1,600?

10:04:39 7 A. Yes.

10:04:39 8 Q. Turning to the next page on the line, on Row 180,
10:04:46 9 individual says "yes and then 17 gram pure, give him 1,100,
10:04:50 10 you'll be happy." What did you understand that to be based
10:04:53 11 on your training and experience?

10:04:54 12 A. That the distributor didn't have access to the ounce,
10:04:58 13 he only had 17 grams instead of 23.85, and the discount was
10:05:03 14 going to be \$1,100 for the 17 grams, not \$1,100 discount, it
10:05:07 15 was going to cost \$1,100 for the 17 grams.

10:05:11 16 Q. Turning to Row 208. Have you looked at this video in
10:05:19 17 advance of your testimony today?

10:05:21 18 A. I have.

10:05:22 19 Q. And the object displayed in the defendant's hand, do
10:05:27 20 you have an opinion as to what that is based on your
10:05:29 21 training and experience?

10:05:30 22 A. Based on my training and experience, but also based
10:05:33 23 on again the totality of all the evidence that I have
10:05:36 24 reviewed, it appears to be a crack pipe.

10:05:39 25 Q. And this is another line item in the year 2018;

Romig - direct

10:05:44 1

correct?

10:05:45 2

A. It's 12/22/2018.

10:05:50 3

Q. Turning to Row 213, could we please play that video,

10:06:04 4

Ms. Vo?

10:06:05 5

Agent Romig, did you review this video in

10:06:23 6

advance of your testimony that we're about to play?

10:06:26 7

A. I did.

10:06:27 8

(Video played.)

10:06:40 9

BY MR. HINES:

10:06:41 10

Q. Did you hear in that video, an individual say "2.07

10:06:46 11

without the bag", or words to that effect?

10:06:48 12

A. Correct. I did hear that.

10:06:50 13

Q. And do you have an opinion based on your training and

10:06:52 14

experience and your hearing the testimony in this case as to

10:06:56 15

what that's in reference to?

10:06:57 16

A. Yes, visually you could see the scale, it appears to

10:07:01 17

be just over two grams of either crack cocaine, or again

10:07:04 18

could potentially be compressed powder that looks like crack

10:07:09 19

cocaine, cocaine powder that looks like crack cocaine.

10:07:12 20

Q. Is that consistent with how you testified earlier

10:07:14 21

that drug purchasers will sometimes weigh the product that

10:07:17 22

they get to verify that they received what they paid for?

10:07:21 23

A. Correct.

10:07:22 24

Q. Now, turning next to the next row, page -- Row 214 in

10:07:30 25

the summary chart. Do you have an opinion based on your

Romig - direct

10:07:36 1 training and experience and hearing the witnesses in this
10:07:38 2 case, as to what is in the hand of that individual in
10:07:43 3 Row 214?

10:07:44 4 A. Yes, it looks like a crack pipe.

10:07:48 5 Q. Row 216, if we zoom in on the object next to the book
10:07:58 6 in the right photograph, just the right photograph?

10:08:03 7 A. Yep, a little bit more elaborate, the object, but
10:08:07 8 again, it appears to be a crack pipe.

10:08:09 9 Q. Is this a device that you have seen or similar
10:08:13 10 looking devices during the course of your investigations
10:08:15 11 when you, for example, arrested defendants or searched
10:08:19 12 locations?

10:08:20 13 A. Yes.

10:08:22 14 Q. Can you describe how that device works?

10:08:24 15 A. You can see the burn mark on the side of the glass
10:08:30 16 pipe. You put the crack in there, you have the filter
10:08:34 17 pretty much close to where the burn mark is, and you can
10:08:37 18 smoke out of the top, a white piece out of the top. The
10:08:40 19 smoke will go in the bottom and come up through the stem
10:08:43 20 into your mouth.

10:08:45 21 Q. Row 222?

10:08:47 22 A. Not your mouth, but whoever's mouth is smoking the
10:08:50 23 pipe, sorry.

10:08:51 24 Q. Thank you for that clarification, agent.

10:08:53 25 Row 222, the defendant says, "one full". Based

Romig - direct

10:08:59 1 on everything we have been talking about, training,
10:09:01 2 experience, hearing the witnesses, and the reviewing of the
10:09:04 3 surrounding context, do you have an opinion as to what that
10:09:06 4 message is in reference to?

10:09:08 5 A. I would say that's one full ounce, but again, it
10:09:10 6 could be dependent on the prior codes between the buyer and
10:09:14 7 seller, so it could be one full eight ball, 3.5 grams, could
10:09:19 8 be one gram, you know, probably not one gram, you wouldn't
10:09:22 9 say one full for that. Mostly it's one ounce, 28.35 grams.

10:09:29 10 Q. Turning to Row 271, the defendant says "I think it
10:09:36 11 may be fentan. What did you understand fentan to mean?

10:09:41 12 A. Fentanyl.

10:09:42 13 Q. What is Fentanyl?

10:09:43 14 A. Fentanyl, for lack of a better description or a -- I
10:09:48 15 should say as a simple description, it's synthetic heroin,
10:09:53 16 it's replaced, really, Columbian heroin in this country.
10:09:58 17 Fentanyl is produced in Mexico and it's probably, I would
10:10:06 18 argue, one of the more, if not the most dangerous drug being
10:10:07 19 distributed in America today, it's certainly the focus of
10:10:12 20 DEA.

10:10:12 21 Q. Is --

10:10:13 22 A. One of our primary focuses, I should say.

10:10:16 23 Q. Do drug resellers sometimes cut or mix Fentanyl into
10:10:22 24 cocaine related products and sell those to drug purchasers?

10:10:25 25 A. They do, unfortunately.

Romig - direct

10:10:27 1 Q. And in some instances, do drug purchasers buy, by
10:10:34 2 mistake Fentanyl instead of cocaine or crack cocaine?

10:10:37 3 A. They do, unfortunately. Just to be clear, Fentanyl
10:10:40 4 is like heroin, a narcotic, not a stimulant like cocaine, so
10:10:45 5 it's not what the user of cocaine or crack cocaine is
10:10:48 6 looking for.

10:10:49 7 Q. Is cocaine and cocaine base, crack, a stimulant?

10:10:53 8 A. Stimulants.

10:10:54 9 Q. And are they also a controlled substance?

10:10:57 10 A. They're both schedule two controlled substances,
10:11:00 11 they're the same.

10:11:01 12 Q. And that's a matter of Federal Law, they're
10:11:05 13 controlled substances?

10:11:06 14 A. Correct.

10:11:06 15 Q. Now, the final message I would like to ask you about,
10:11:10 16 Row 287, Agent Romig, an individual says "I have a ball on
10:11:18 17 me", and then if we zoom out, Ms. Vo, the defendant
10:11:25 18 responds, "dude, did you just scam me. Feels like it."
10:11:29 19 There is later messages in which they're talking about
10:11:32 20 whatever they're talking about. Based on your training and
10:11:34 21 experience and everything you have heard in this case, do
10:11:37 22 you have an opinion as to what is being referenced when the
10:11:40 23 individual says I have a ball on me?

10:11:42 24 A. Yeah, I would say that that's an eight ball, which
10:11:44 25 we've talked about or I have talked about, 3.5 grams of

Romig - cross

10:11:49 1 cocaine or crack cocaine. The descriptions from some of the
10:11:53 2 other witnesses about a marble, that's fairly accurate for
10:11:58 3 an eight ball, three-and-a-half grams, the ping pong ball or
10:12:01 4 a little bit larger, you're probably getting closer to an
10:12:05 5 ounce, 28.35 grams.

10:12:10 6 Q. All right, Agent Romig. Thank you.

10:12:12 7 MR. HINES: I have no further questions at this
10:12:14 8 time, Your Honor.

10:12:15 9 THE WITNESS: Thank you.

10:12:15 10 THE COURT: Thank you.

10:12:17 11 Cross-exam.

10:12:17 12 MR. LOWELL: Yes, Your Honor.

10:12:19 13 CROSS-EXAMINATION

10:12:19 14 BY MR. LOWELL:

10:12:25 15 Q. Good morning, agent, my name is Abbe Lowell, I'm one
10:12:29 16 of Hunter's lawyers.

10:12:30 17 A. Good morning, sir.

10:12:31 18 Q. Good morning to you all.

10:12:33 19 I would like if I can in the time I'm here to
10:12:36 20 talk to you about this case and not generalities about how
10:12:41 21 various drugs are grown and processed, okay?

10:12:45 22 A. Yes, sir.

10:12:47 23 Q. To begin with, I just wanted to make sure I got this
10:12:50 24 right. In your background, in your work experience, you
10:12:54 25 said you were a member of the Baltimore Police?

Romig - cross

- 10:12:57 1 A. I was.
- 10:12:57 2 Q. Tell me those years again?
- 10:12:59 3 A. August of 1999, and I left for the Berks County
10:13:05 4 Detectives in April 2001.
- 10:13:07 5 Q. So that was about two years?
- 10:13:08 6 A. Yes, sir.
- 10:13:09 7 Q. Berks County in?
- 10:13:10 8 A. Reading, Pennsylvania.
- 10:13:12 9 Q. Okay. When you were in Baltimore, what was your job?
- 10:13:16 10 A. I was assigned to the patrol division.
- 10:13:19 11 Q. Meaning you were on the street?
- 10:13:20 12 A. I was.
- 10:13:20 13 Q. And you were working drugs when you were on the
10:13:23 14 street?
- 10:13:23 15 A. Yes.
- 10:13:23 16 Q. In the City of Baltimore?
- 10:13:25 17 A. Yes, sir.
- 10:13:29 18 Q. In your introducing your expertise and what you are
10:13:33 19 testifying about, you indicated that your job and the job of
10:13:37 20 your colleagues is to be trying to break up large scale
10:13:42 21 distribution of drugs?
- 10:13:45 22 A. Correct.
- 10:13:46 23 Q. Usually not individual users?
- 10:13:48 24 A. That's correct.
- 10:13:49 25 Q. And you don't have any reason to understand that what

10:13:53 1 Mr. Biden is on trial for has anything to do with him being
10:13:57 2 a distributor?

10:13:58 3 A. Nothing that I have reviewed would indicate that.

10:14:00 4 Q. And you're not investigating, or you didn't
10:14:04 5 investigate him for the time he was using?

10:14:06 6 A. I have never done that, no.

10:14:08 7 Q. You went over all those texts that had people's names
10:14:11 8 and numbers, some of which you just went over with
10:14:14 9 Mr. Hines, and there were people that seemed to be the
10:14:17 10 distributors, or at least the people that were selling him
10:14:21 11 narcotics. Did you see those people's texts?

10:14:24 12 A. Yes, sir.

10:14:24 13 Q. So as your job to try to break up large scale
10:14:28 14 distribution, did you look into those people?

10:14:31 15 A. I didn't look into anybody in this investigation.
10:14:34 16 This is not my investigation.

10:14:36 17 Q. Got it. So did you see anything in trying to sort
10:14:39 18 out those messages to confirm their meaning that you went to
10:14:43 19 try to find those people that were being communicated with?

10:14:48 20 A. No. Again, this is -- was, I should say, an FBI
10:14:53 21 investigation, and I did not do anything as a DEA agent to
10:14:58 22 target any of the individuals, including the sellers.

10:15:00 23 Q. Notwithstanding that, you said your mission is to
10:15:04 24 break up large scale distribution.

10:15:07 25 A. I'm not sure what you're asking.

Romig - cross

10:15:09 1 Q. My question was, you didn't do that, not that you
10:15:12 2 don't know that it was done, not withstanding that you said
10:15:16 3 your goal --

10:15:17 4 A. The DEA, as far as I know, but specifically me, or
10:15:21 5 any of the groups that I supervise did not investigate any
10:15:24 6 of the people based on my review of the sellers in this
10:15:28 7 investigation.

10:15:28 8 Q. You mentioned something about a process that mixes
10:15:32 9 and I think you used the word inositol right?

10:15:36 10 A. Inositol, it is a dietary supplement.

10:15:38 11 Q. And you mentioned that cocaine comes from a variety
10:15:42 12 of sources in the world, South America I think is what you
10:15:45 13 mentioned?

10:15:46 14 A. Primarily South America, Columbia.

10:15:49 15 Q. Again, turning to this case, do you have any idea
10:15:53 16 where the drugs that were used by Hunter at any point, where
10:15:56 17 those came from?

10:15:56 18 A. Meaning what country they were produced in?

10:15:59 19 Q. Yeah, to the extent he was using what you saw he was
10:16:03 20 using, did you --

10:16:04 21 A. Most likely --

10:16:05 22 Q. I didn't say most likely, I'm asking do you know,
10:16:08 23 because there were multiple countries that you mentioned
10:16:10 24 where these come from?

10:16:12 25 A. I don't know which country they came from.

Romig - cross

- 10:16:14 1 Q. How are they imported into the United States?
- 10:16:17 2 A. I do not know.
- 10:16:18 3 Q. How were they distributed once they were imported
- 10:16:21 4 into the United States?
- 10:16:22 5 A. By the distributors that were --
- 10:16:25 6 Q. In this case?
- 10:16:26 7 A. By the distributors in these messages.
- 10:16:29 8 Q. How do you know, once it came in, how did they
- 10:16:32 9 distribute to the people they were selling it to, do you
- 10:16:35 10 know?
- 10:16:35 11 A. Specifically in this case, by the review of the
- 10:16:37 12 messages.
- 10:16:38 13 Q. You know somebody was in the car with his stuff in
- 10:16:41 14 it, but other than that with those other messages, when you
- 10:16:45 15 know amounts, how did that get to the place where it was
- 10:16:47 16 provided to Hunter?
- 10:16:48 17 A. How did the distributors in these messages get those
- 10:16:52 18 drugs?
- 10:16:52 19 Q. Yeah.
- 10:16:53 20 A. I can only surmise, I don't know.
- 10:16:54 21 Q. So you didn't do that?
- 10:16:56 22 A. No.
- 10:16:56 23 Q. You mentioned, I think at one point, a number of
- 10:17:00 24 times where you would see a large amount of product that is
- 10:17:03 25 imported in some fashion, I think once you said stuffed into

10:17:06 1 a plantain?

10:17:08 2 A. Hundreds of plantains, yes.

10:17:11 3 Q. I'm sorry, a crate. But you weren't referring to
10:17:14 4 anything in this case?

10:17:16 5 A. No.

10:17:21 6 Q. So I would like to go back over with you some of the
10:17:25 7 things that you identified. Mr. Radic, would you put back
10:17:33 8 on the screen, please, government Exhibit 18. Did you
10:17:48 9 receive this summary chart from others in the investigation?

10:17:48 10 A. I did.

10:17:49 11 Q. And then your job, I think as you explained it, was
10:17:52 12 to go through and as you just did interpret based on your
10:17:56 13 expertise what terms mean, correct?

10:18:01 14 A. Yes, sir.

10:18:02 15 Q. Would you go please to the first one you did. That
10:18:06 16 would be Row 3, Mr. Radic. Do you see it? You said there
10:18:09 17 was one reference to 1.4, and I think there is a typo. But
10:18:15 18 you saw that and you interpreted that to be a reference to
10:18:19 19 an amount of drug?

10:18:20 20 A. Yes, sir.

10:18:20 21 Q. And would you go, Mr. Radic, please, to the next one,
10:18:24 22 which was Row 20 and 21 -- oh, I'm sorry. And what's the
10:18:28 23 date of that?

10:18:29 24 A. The date of this text?

10:18:32 25 Q. Yeah, when it was flashed on the screen and enlarged,

Romig - cross

10:18:35 1 I didn't see the column with the date, so I'm asking you
10:18:38 2 what the date is for that?

10:18:39 3 A. 4/18/2018.

10:18:42 4 Q. Mr. Radic, could you go to rows 20 and 21. You see
10:18:46 5 that you identified and you explained that it could be
10:18:49 6 powder, it could be compressed powder, it could be crack,
10:18:52 7 and you have identified a scale. Yes?

10:18:55 8 A. Yes, sir.

10:18:55 9 Q. And the date of that row and the row under it, 20 and
10:19:00 10 21, the date of that one?

10:19:01 11 A. 4/27/2018 and 4/28/2018.

10:19:13 12 Q. Mr. Radic, could you go to Row 26, which you talked
10:19:13 13 about, please? You talked about baby powder and you
10:19:16 14 referenced baby powder as being a reference to I think
10:19:19 15 powder cocaine?

10:19:21 16 A. Correct.

10:19:21 17 Q. And the date of that one?

10:19:23 18 A. May 6, 2018.

10:19:27 19 Q. And then you identified Row 27 right below it.
10:19:31 20 Mr. Radic, the real soft stuff, which was right after that
10:19:34 21 row before, and you interpreted that again as being in
10:19:37 22 reference to powder?

10:19:39 23 A. Yes.

10:19:39 24 Q. And the date of that one?

10:19:41 25 A. Also May 6, 2018.

Romig - cross

10:19:43 1 Q. And if you go to the next one you did, which was
10:19:48 2 Row 31. And that's party favor, right?

10:19:51 3 A. Yes.

10:19:52 4 Q. Which didn't mean a little hat or little candle?

10:19:56 5 A. I do not believe it means that, I believe it's a
10:19:58 6 reference to drugs.

10:19:59 7 Q. And again if it is, what is the date of that one?

10:20:02 8 A. May 6, 2018.

10:20:03 9 Q. Would you go to the one that you did next, which is
10:20:07 10 Row 74, please, Mr. Radic. And there is a reference there
10:20:11 11 to ten grams. Do you see that?

10:20:12 12 A. Yes, sir.

10:20:13 13 Q. And you interpreted that as being a reference to a
10:20:15 14 weight of some drug; yes?

10:20:17 15 A. Yes, again, I'm assuming either cocaine or crack
10:20:21 16 cocaine.

10:20:21 17 Q. Right. And the date of that one?

10:20:22 18 A. July 25th, 2018.

10:20:25 19 Q. And then you went to Row 87. And that's a reference
10:20:31 20 to chore boy that you said?

10:20:33 21 A. Yes, sir.

10:20:33 22 Q. And that's what you explained. And the date of that
10:20:37 23 one?

10:20:38 24 A. August 8, 2018.

10:20:40 25 Q. And then the next reference that you did was to

10:20:44 1 Row 174. And that is ounce, and again your interpretation
10:20:50 2 of that was to a weight of, or an amount of drugs?

10:20:54 3 A. Yes, that would make an ounce of cocaine or crack
10:20:58 4 cocaine.

10:20:58 5 Q. And the date of that one?

10:20:59 6 A. November 27th, 2018.

10:21:03 7 Q. Okay. And then you went to Row 180. And there was,
10:21:17 8 do you see that reference on 180?

10:21:19 9 A. Yes, sir.

10:21:19 10 Q. And the date of that one?

10:21:21 11 A. November 28, 2018.

10:21:25 12 Q. And then you went to Row 208. That was a picture
10:21:38 13 that you identified, and there is something in Mr. Biden's
10:21:44 14 hand and you identified that as a crack pipe?

10:21:47 15 A. Yes. Just to be clear, I had the benefit of viewing
10:21:50 16 the whole video, so it's a little bit clearer.

10:21:53 17 Q. Yeah, I'm sorry, I know you read it. And the date of
10:21:58 18 that one?

10:21:58 19 A. Is December 22nd, 2018.

10:22:01 20 Q. Okay. Then you went and identified Row 213, 213.

10:22:09 21 And that was the one that there was also a video, and I
10:22:12 22 think that was played, perhaps, and the date of that one?

10:22:15 23 A. December 29th, 2018.

10:22:18 24 Q. And then you identified the row that's 214 right
10:22:24 25 below it or the next page. And that one you identified as

Romig - cross

10:22:28 1 him holding a pipe, a hand holding a pipe?

10:22:32 2 A. Yes, sir.

10:22:33 3 Q. And the date of that one is now in the next year,
10:22:36 4 right, what's the date?

10:22:37 5 A. January 14th, 2019.

10:22:41 6 Q. And then you identified what's on Row 222. And you
10:22:49 7 were talking about what this meant, one full, to you is a
10:22:53 8 reference, to again, an amount of drugs?

10:22:55 9 A. Yes, I would suspect an ounce of cocaine or crack
10:23:00 10 cocaine based on everything else.

10:23:01 11 Q. And that's even a month later than the one before,
10:23:04 12 that's at the end of February right, what's the date?

10:23:07 13 A. February 26, 2019.

10:23:09 14 Q. And then you went to Row 271. And the reference
10:23:20 15 there was it may be fentan, and you explained to us what
10:23:24 16 fentan was, right?

10:23:25 17 A. Yes, sir.

10:23:25 18 Q. And the date is at the end of, again, that same day
10:23:29 19 of February 26th of 2019?

10:23:33 20 A. Yes, sir.

10:23:33 21 Q. And when you were reviewing this chart, not to do it
10:23:37 22 again, you did see how many on that one day on February 26th
10:23:43 23 of the backs and forth for the potential person that's
10:23:46 24 supplying him drugs, correct, quite a number?

10:23:48 25 A. Yeah, I would have to go over it again.

10:23:51 1 Q. More than one? I withdrawal the question, it's been
10:23:57 2 established.

10:23:57 3 A. Okay.

10:23:58 4 Q. Would you look at Row 287, which was maybe the last
10:24:01 5 one you did, and that's talking about "dude, did you try --
10:24:05 6 that's the, I have a ball on me", do you see that?

10:24:08 7 A. Yes, sir.

10:24:09 8 Q. You identified a ball as being maybe that 8-ball?

10:24:12 9 A. Correct.

10:24:12 10 Q. What's the date of this one?

10:24:14 11 A. March 4th, 2019.

10:24:16 12 Q. So with all those references, let me ask you this.
10:24:19 13 In part of what you did to interpret the texts and to get as
10:24:23 14 you say the "full flavor" of the backs and forth, did you
10:24:26 15 read Hunter Biden's book?

10:24:28 16 A. No, I had excerpts from the book provided to me, and
10:24:34 17 I listened to the FBI agent's testimony, who is seated at is
10:24:39 18 the table, Erika, but I did not read the book.

10:24:43 19 Q. But you did hear those or see the excerpts?

10:24:46 20 A. I heard the ones played in court and I read over some
10:24:50 21 of the excerpts in the book.

10:24:51 22 Q. If you did that, you know that Hunter in his book
10:24:54 23 wrote about all the use of his drugs in 2016 and 2017 and
10:24:58 24 the parts of 2018, you heard that played in court, correct?

10:25:02 25 A. Yes, sir.

10:25:03 1 Q. When you combined that, you saw that the things that
10:25:06 2 you have identified as being references to drug use, he
10:25:09 3 himself identified for the time he was using?

10:25:11 4 A. Yes, sir.

10:25:15 5 Q. Now, please, I would like you -- I'm sorry, one more.
10:25:19 6 Could you go to, Mr. Radic, Row 216. Remember when you
10:25:29 7 identified somebody holding a crack pipe that's a tube, do
10:25:34 8 you remember that?

10:25:34 9 A. Yes, well nobody is holding it, it's on the table it
10:25:38 10 appears.

10:25:38 11 Q. I don't mean here, I mean on the earlier one when you
10:25:42 12 saw a hand?

10:25:43 13 A. Yes, sir.

10:25:43 14 Q. It's a tube, a thin straight tube?

10:25:46 15 A. Yes, sir.

10:25:47 16 Q. On this one, which is 216, in 2019, you identified
10:25:53 17 this object on the table?

10:25:55 18 A. Yes, sir.

10:25:56 19 Q. Isn't that what's familiarly known as a bong?

10:25:59 20 A. It doesn't appear to be a water bong for marijuana,
10:26:04 21 the reason why I say that is the charred part of the pipe,
10:26:09 22 but yes, it absolutely could be used as a bong as well.

10:26:12 23 Q. Meaning it could be used to smoke weed?

10:26:15 24 A. You could smoke meth out of there, you could smoke
10:26:19 25 heroin out of there.

Romig - cross

- 10:26:20 1 Q. You could smoke weed out of there?
- 10:26:22 2 A. You could smoke pipe tobacco.
- 10:26:26 3 Q. It's a water pipe?
- 10:26:27 4 A. No, I don't know that it is a water bong.
- 10:26:30 5 Q. It has the ability, you see that bottom part, isn't
- 10:26:33 6 that a place where people could do that, they would fill it
- 10:26:36 7 with water?
- 10:26:36 8 A. I do, but it doesn't appear, what it looks like on
- 10:26:40 9 the bottom.
- 10:26:40 10 Q. At that occasion where the photo was taken?
- 10:26:43 11 A. Correct.
- 10:26:43 12 Q. It doesn't mean it wasn't used in that fashion?
- 10:26:46 13 A. Absolutely.
- 10:26:47 14 Q. So weed could be in there at some point?
- 10:26:50 15 A. Any drug could be in there, even a noncontrolled
- 10:26:53 16 substance.
- 10:26:54 17 Q. The date of that photo is January 31, 2019?
- 10:27:01 18 A. Yes, sir.
- 10:27:02 19 Q. Could you please, Mr. Radic, go on government
- 10:27:06 20 Exhibit 18, to start with Row 88. I want to pick up this.
- 10:27:14 21 First, on Row 87, what's the date with the chore boy?
- 10:27:22 22 A. August 8th, 2018.
- 10:27:24 23 Q. You see the next one is October 8th of 2018, do you?
- 10:27:29 24 A. Yes, sir.
- 10:27:31 25 Q. And now I don't know if you have it in front of you,

10:27:34 1 so we're going to skim through Rows 88 to the next page,
10:27:39 2 please, Mr. Radic. Stay there. Can you look up and see --
10:27:42 3 you can see it on your screen?

10:27:43 4 A. I can.

10:27:44 5 Q. Do you see those texts?

10:27:46 6 A. I do.

10:27:46 7 Q. And then could you go to the next page, Mr. Radic, do
10:27:51 8 you see those texts?

10:27:52 9 A. I do.

10:27:52 10 Q. You see the date, these are now October of 2018;
10:27:56 11 right?

10:27:57 12 A. Yes, sir.

10:27:57 13 Q. Take a look at those. All right. If you go to the
10:28:01 14 next page, please. And you see those texts?

10:28:04 15 A. Yes, sir.

10:28:06 16 Q. Okay. Now, you see on the 13th, go back one, please,
10:28:15 17 Mr. Radic. Now go forward one, and go forward one. Okay.
10:28:21 18 Look at those texts. Go forward one. Go forward one.
10:28:33 19 That's still in October of '18. Please go forward one.
10:28:40 20 Would you go another one? Do you see a reference to a
10:28:44 21 Bernard at 10:13; right?

10:28:49 22 A. Yes. 119.

10:28:51 23 Q. Do you see that one?

10:28:52 24 A. I do.

10:28:53 25 Q. You didn't do any independent investigation of who

10:28:57 1 Bernard is or whether he even exists did you?

10:29:00 2 A. No, I didn't do any investigation in this case.

10:29:02 3 Q. Got it.

10:29:02 4 A. I just was provided the messages that you see in

10:29:05 5 front of you.

10:29:06 6 Q. And no need to interpret, because there is a word

10:29:10 7 dealer there, so you didn't need to interpret that one?

10:29:13 8 A. A lot of these messages don't need much

10:29:16 9 interpretation for me, correct.

10:29:17 10 Q. Go to the next one. That's to Rows 125. Please go

10:29:22 11 one more, please. I'm sorry, go back, you saw there is a

10:29:26 12 reference in that to sleeping on a car, smoking crack, you

10:29:30 13 don't need to interpret that?

10:29:31 14 A. I don't think I need to interpret that, no, sir.

10:29:34 15 Q. You don't know whether that's accurate or not,

10:29:36 16 whether that's where he was at the time; right?

10:29:40 17 A. I don't.

10:29:41 18 Q. Next one. Look at those. Next one, please,

10:29:49 19 Mr. Radic. And again, we're in October of 2018, right?

10:29:58 20 A. Correct.

10:29:59 21 Q. If you go to the next one, take a look at those.

10:30:04 22 Like, for example, 1:35 on the 16th of October is one that

10:30:09 23 says "hey buddy, it's Richie Jones, checking in", that's no

10:30:15 24 reference to drugs or anything like that, right?

10:30:17 25 A. It doesn't appear to be, no.

10:30:19 1 Q. Go to the next one, Mr. Radic. With that. Go to one
10:30:24 2 more, please. Okay. We're in the end of October 2018. Go
10:30:28 3 to one more. 1:49. And we're still in October. Right?
10:30:35 4 And then the next one. Do you see that's at the going into
10:30:42 5 November and after, do you see that?

10:30:43 6 A. Yes, sir.

10:30:44 7 Q. When you reviewed this chart before you came to court
10:30:47 8 or at any point in your investigation, in what I just showed
10:30:52 9 you from the period of time from August of 2018 through
10:30:55 10 November of '18, there is no reference in what you saw or
10:31:00 11 analyzed of 1.4, is there, in those texts that I just went
10:31:06 12 through with you?

10:31:08 13 A. No, I'm not sure when that 1.4 text was, but no, not
10:31:12 14 in the ones we just reviewed.

10:31:14 15 Q. No reference or photo of any scale with white rocks
10:31:17 16 on it in the texts I identified for you between August and
10:31:22 17 November of 2018; correct?

10:31:25 18 A. Correct.

10:31:25 19 Q. No reference to baby powder in that period of time?

10:31:29 20 A. Correct.

10:31:29 21 Q. No reference to soft stuff in that period of time?

10:31:33 22 A. Correct.

10:31:34 23 Q. No reference to party favor in that period of time?

10:31:38 24 A. Correct.

10:31:39 25 Q. No reference to grams in that period of time?

Romig - cross

- 10:31:43 1 A. Correct.
- 10:31:44 2 Q. No reference to chore boy in that period of time?
- 10:31:48 3 A. That's correct.
- 10:31:48 4 Q. No reference to one full in that period of time?
- 10:31:52 5 A. Correct.
- 10:31:52 6 Q. No reference to fentan in that period of time?
- 10:31:55 7 A. Yes. Correct.
- 10:31:57 8 Q. And no reference of a ball in that period of time?
- 10:32:02 9 A. Correct.
- 10:32:02 10 Q. Those last 4 or 5 were all the way into 2019 as we
- 10:32:05 11 went through on the screen a moment ago, right?
- 10:32:08 12 A. Yes, sir.
- 10:32:08 13 Q. And in that period of time, there is no pictures of a
- 10:32:12 14 drug being used, right, no holding of a pipe, right?
- 10:32:15 15 A. None that I reviewed.
- 10:32:16 16 Q. No bags on a scale, right?
- 10:32:18 17 A. No, sir.
- 10:32:19 18 Q. No bags at all?
- 10:32:20 19 A. Correct.
- 10:32:21 20 Q. No videos of him weighing any drugs, right?
- 10:32:24 21 A. None that I reviewed, no.
- 10:32:26 22 Q. So all that you identified and what I went through
- 10:32:31 23 with you, were for the years I said before and after the
- 10:32:35 24 period of August of 2018 through the time that we identified
- 10:32:41 25 those in November of '18, that would be a fair statement I

10:32:45 1 just made, isn't it?

10:32:46 2 A. With the exception of the October text that we talked
10:32:49 3 about, where he said he was smoking crack.

10:32:51 4 Q. I did those too. We identified those too. You'll
10:32:56 5 agree with me, no pictures, no photos, no scales, no white
10:32:59 6 rocks, no chore boy, no fentan, no ball, no ounce, no grams,
10:33:04 7 none of that?

10:33:05 8 A. Yes, sir, outside those two messages, you are
10:33:08 9 correct.

10:33:08 10 MR. LOWELL: That's all I have.

10:33:11 11 THE COURT: Redirect?

10:33:12 12 REDIRECT EXAMINATION

10:33:12 13 BY MR. HINES:

10:33:12 14 Q. Mr. Lowell asked you some questions about those
10:33:14 15 October messages and in response you said some messages
10:33:18 16 don't really need interpretation?

10:33:20 17 A. Correct.

10:33:20 18 Q. What did you mean by that?

10:33:22 19 A. I think those messages are pretty clear, I don't
10:33:24 20 think you need me as an expert to provide any kind of
10:33:27 21 information about those texts.

10:33:29 22 Q. One of them, for example, the one we've seen over and
10:33:32 23 over, sleeping on a car smoking crack, crack is a controlled
10:33:37 24 substance as you talked about earlier?

10:33:39 25 A. Correct.

Romig - redirect

10:33:40 1 Q. Mr. Lowell asked you in that time frame of October
10:33:43 2 whether you saw anything related to, you know, the messages
10:33:50 3 that were code, while you have been sitting in this trial,
10:33:54 4 did you see any other evidence regarding the month of
10:33:57 5 October or that time frame that is consistent with someone
10:34:01 6 who is using narcotics?

10:34:02 7 A. Yes. Special Agent Jensen's testimony, where she
10:34:07 8 went over some of the cash withdrawals.

10:34:10 9 Q. Those were large cash withdrawals --

10:34:13 10 MR. LOWELL: That's beyond the scope, but I'm
10:34:15 11 happy to get the cash -- we can talk about that. I'm happy
10:34:22 12 to, but I want to point out it's beyond the scope.

10:34:27 13 MR. HINES: I have one follow-up since he opened
10:34:29 14 the door about October in asking what he saw.

10:34:33 15 THE COURT: Okay.

10:34:33 16 BY MR. HINES:

10:34:34 17 Q. So there were almost daily large cash withdrawals in
10:34:39 18 the amounts of hundreds and thousands of dollars that you
10:34:42 19 saw that have informed your interpretation in this case, is
10:34:46 20 that right?

10:34:46 21 A. Can you repeat that one more time, did you say
10:34:49 22 hundreds of thousands of dollars?

10:34:50 23 Q. There were almost daily withdrawals of hundreds of
10:34:53 24 dollars or thousands of dollars?

10:34:56 25 A. Yes, that I heard correctly, correct.

Romig - recross

10:34:58 1 Q. That's consistent with someone who is using and
10:35:02 2 abusing narcotics, right?

10:35:03 3 A. Well, again, coupled with all the other evidence, I
10:35:07 4 can review that and make an interpretation as to what at
10:35:10 5 least some of that cash is being used for, correct.

10:35:12 6 Q. And what is your interpretation?

10:35:14 7 A. That some of that cash is being used to purchase
10:35:17 8 drugs.

10:35:19 9 MR. HINES: No further questions.

10:35:23 10 RE-CROSS-EXAMINATION

10:35:24 11 BY MR. LOWELL:

10:35:25 12 Q. Is large withdrawals of cash on any day that is in
10:35:29 13 the amounts that they said used for things other than drugs?

10:35:32 14 A. It absolutely can be, yes.

10:35:34 15 Q. Can it be used to give your family cash to pay for
10:35:38 16 their expenses or living?

10:35:40 17 A. Absolutely.

10:35:41 18 Q. And can it be used to purchase goods if you don't
10:35:44 19 have a usable credit card at the time?

10:35:46 20 A. Absolutely.

10:35:47 21 Q. Can it be used to pay for the place that you checked
10:35:51 22 yourself in for rehabilitation if they'll take it that way?

10:35:54 23 A. Yes, as far as I know.

10:35:55 24 Q. Can it be used for a person's living expenses
10:35:59 25 themselves to pay for their rent, their groceries, anything?

Romig - recross

10:36:04 1 A. Yes, sir.

10:36:05 2 Q. So when Mr. Hines asked you a moment ago whether you
10:36:09 3 heard Agent Jensen give her view as to whether there is --
10:36:14 4 defined large amounts of cash, you don't know in this case
10:36:18 5 as opposed to your experience what that cash was used for,
10:36:22 6 right?

10:36:22 7 A. No, actually I'm -- I'm specifically looking at those
10:36:27 8 cash withdrawals in reference to this case because of all
10:36:31 9 the other evidence.

10:36:32 10 Q. Correct.

10:36:34 11 A. The exact opposite is true, if this was someone who
10:36:37 12 didn't have all these other messages and was withdrawing
10:36:41 13 \$1,600, \$1,500 in cash, I may think that there is absolutely
10:36:46 14 nothing to that. The reason that it stands out is because
10:36:49 15 of the other evidence.

10:36:50 16 Q. I understand your connection, but it's your making
10:36:53 17 that connection. So when you were doing that to make that
10:36:56 18 connection, did you look at his bank account statements to
10:36:58 19 see where the cash went, if there was a debit, whether or
10:37:01 20 not there was a specific withdrawal that went to a rehab
10:37:04 21 place, did it go to another person's account like his
10:37:07 22 daughter, did you see and make the evaluation yourself as to
10:37:11 23 where this money went?

10:37:12 24 A. I don't know where the cash went. I did not trace
10:37:17 25 the cash, if that's what you're asking. I didn't

Romig - recross

10:37:20 1 participate in this investigation, again I'll reiterate,
10:37:23 2 only reviewed the evidence that was provided to me.

10:37:25 3 Q. Okay. So as I leave this podium, other than seeing
10:37:29 4 the cash, you cannot say on any particular day with any
10:37:34 5 amount whether it was used for -- I'm sorry, that's not my
10:37:37 6 last question, I apologize. I think you said for example
10:37:40 7 1.4 could cost \$140, right?

10:37:45 8 A. Correct.

10:37:46 9 Q. You mentioned three point something could be 220?

10:37:50 10 A. Correct.

10:37:51 11 Q. That's dollars meaning 120, 140, 220, right?

10:37:56 12 A. Yes, sir.

10:37:56 13 Q. Thousands and thousands of dollars, how much was --
10:38:00 14 how much is a kilo, 2.2 pounds?

10:38:03 15 A. 2.2 pounds, yes, sir.

10:38:05 16 Q. And how much does that cost?

10:38:07 17 A. Depends.

10:38:08 18 Q. Upwards of perhaps \$60,000, right?

10:38:11 19 A. No, probably not. In 2018, I would say probably
10:38:14 20 somewhere in the range of 35 to \$40,000.

10:38:17 21 Q. So when we're talking about a buy of hundred dollars
10:38:20 22 here and a hundred dollars there, that's not thousands and
10:38:23 23 thousands of dollars that's being withdrawn right?

10:38:26 24 A. No the amounts I saw in the thousand dollar range
10:38:29 25 were some of the references, the \$1,400 an ounce, then I saw

10:38:32 1 the withdrawals of 1,600, which is pretty close. I think
10:38:35 2 there may have even been a reference in a text to 1,600, but
10:38:39 3 I'm not certain, it could have been 14.

10:38:42 4 Q. This will be my last questions.

10:38:44 5 The period of time that I asked you if you saw
10:38:47 6 any scales, saw any powders, saw anything you identified,
10:38:51 7 did you compare that to the withdrawals at that time that
10:38:54 8 were happening in cash?

10:38:55 9 A. Say that one more time.

10:38:56 10 Q. Turning to October of 2018, on the things that people
10:38:59 11 can use cash for.

10:39:01 12 A. Yes.

10:39:01 13 Q. You didn't see any reference in those to the cash
10:39:04 14 being used for drugs in that period, did you?

10:39:06 15 A. In other words, were those specific messages lined up
10:39:09 16 with the cash withdrawals.

10:39:10 17 Q. Yes.

10:39:11 18 A. No.

10:39:12 19 MR. LOWELL: Thank you.

10:39:13 20 THE COURT: Anything further?

10:39:14 21 MR. HINES: No, Your Honor.

10:39:15 22 THE COURT: Thank you, sir. You're excused.

10:39:17 23 THE WITNESS: Thank you, ma'am.

10:39:19 24 MR. HINES: Your Honor, subject to the admission
10:39:24 25 of exhibits in this case, at this time the United States

10:39:28 1 rests.

10:39:29 2 THE COURT: All right. Thank you. All right,
10:39:32 3 members of the jury we're going to take our morning break
10:39:34 4 now. We may have some procedural things that we need to
10:39:38 5 address, so it might be a little bit longer, but it will
10:39:42 6 probably be maybe 20 to 30 minutes. All right. Thank you.

10:39:46 7 COURTROOM DEPUTY: All rise.

10:39:48 8 (Jury exiting the courtroom at 10:39 a.m.)

10:40:15 9 THE COURT: All right. Mr. Lowell, you can be
10:40:28 10 seated. Mr. Lowell, why don't you make your motion. But
10:40:32 11 before you do, I would asked you before if you gave us all
10:40:35 12 your exhibits and we have the exhibits you sent us, is that
10:40:41 13 all the exhibits you have for any witnesses you are going to
10:40:44 14 call?

10:40:48 15 MR. LOWELL: I'm sorry, for the ones today you
10:40:51 16 mean, if we're calling any of the witnesses today? I mean
10:40:54 17 for any of the witnesses we're calling or potentially
10:40:57 18 calling, you have all the exhibits today.

10:40:59 19 THE COURT: I have seven exhibits and they are
10:41:01 20 things like --

10:41:03 21 MR. LOWELL: My colleagues are nodding their
10:41:05 22 heads.

10:41:05 23 THE COURT: So you have no exhibits for
10:41:07 24 Mr. Clemons, Mr. Turner, Mr. Palimere.

10:41:10 25 MR. LOWELL: Other than the government Exhibits,

10:41:12 1 which are in evidence.

10:41:13 2 THE COURT: Other than the government exhibits
10:41:14 3 which are in evidence.

10:41:15 4 MR. LOWELL: Or if they're not in evidence,
10:41:17 5 they're a government exhibit that has yet to be, but I don't
10:41:20 6 know that there is one.

10:41:21 7 THE COURT: But I asked that you give them to me
10:41:24 8 so that if there are disputes, I have them handy.

10:41:27 9 MR. LOWELL: I understand, I'm a little confused
10:41:30 10 myself. If government Exhibit 10A is in evidence, and it's
10:41:33 11 been talked about.

10:41:34 12 THE COURT: Yeah.

10:41:35 13 MR. LOWELL: That would be -- did I need to give
10:41:37 14 it to you again?

10:41:38 15 THE COURT: Because what we did is you're
10:41:40 16 supposed to give them to me in like a direct folder so I
10:41:44 17 have --

10:41:44 18 MR. LOWELL: I didn't understand that, I thought
10:41:46 19 it was in evidence.

10:41:47 20 THE COURT: So the only exhibits that you're
10:41:49 21 going to use with those folks are things that are already in
10:41:52 22 evidence?

10:41:53 23 MR. LOWELL: Yes, ma'am. I'm sorry I didn't
10:41:55 24 know that you wanted them again.

10:41:57 25 THE COURT: Okay.

10:41:57 1 MR. LOWELL: And so with the government resting
10:42:01 2 subject to that, as we have talked about in terms of the
10:42:04 3 schedule, we are orally now making a motion under federal
10:42:09 4 rule of criminal procedure 29 for a judgment of acquittal.
10:42:14 5 Orally, I will tell the Court the three grounds, and as I
10:42:19 6 promised this afternoon, we will be submitting to the Court
10:42:22 7 and to counsel a motion that will explain the grounds, the
10:42:27 8 first ground, as we talked about at the beginning of the
10:42:30 9 case, will be a motion for a judgment of acquittal based on
10:42:34 10 this case's charges being unconstitutional under the second
10:42:38 11 amendment. As applied to the facts and the people, the
10:42:41 12 person in this case.

10:42:43 13 The second, and it's hard to describe, is that
10:42:45 14 the section that is being charged in Count 3, which is a
10:42:50 15 combination of 922(g) and I think 924(a). We will present
10:42:55 16 to Your Honor that that section has been amended and its
10:42:58 17 amendment means the period of time about which this case
10:43:02 18 depends did not have an offense as charged in Count 3. It's
10:43:06 19 hard to describe better than that, but I think --

10:43:08 20 THE COURT: As I understand the change in 924
10:43:11 21 was a change that was made in 2021 or 2022 to increase the
10:43:18 22 penalty from the maximum of 10 years to a maximum of
10:43:22 23 15 years.

10:43:22 24 MR. LOWELL: Yes, but in that period of time it
10:43:24 25 had an effect on the statute that was in effect when the

10:43:27 1 offense was charged, when it was created.

10:43:29 2 THE COURT: So can you help me understand what
10:43:31 3 you're talking about?

10:43:32 4 MR. LOWELL: I can try orally, but I am in the
10:43:36 5 process of putting it together. When a statute is amended,
10:43:40 6 and we will give you the case law, it has an impact on
10:43:43 7 whether or not it is the affect of repealing the statute
10:43:45 8 that existed at the time at which the statute was amended.
10:43:49 9 And we will set out the case law to indicate that that's the
10:43:53 10 event in this case, that's the best I can do at the moment.
10:43:55 11 I'm not prepared to make the argument, but I promise you it
10:43:58 12 will be spelled out quickly.

10:44:02 13 THE COURT: So essentially, the argument is that
10:44:04 14 in increasing the penalty, there was a wiping out of the
10:44:14 15 statute for times before that?

10:44:19 16 MR. LOWELL: A period of time before that.

10:44:21 17 THE COURT: Okay.

10:44:21 18 MR. LOWELL: All right. And third, you're
10:44:24 19 smiling.

10:44:25 20 THE COURT: That's something only congress could
10:44:27 21 do, right, intend to increase the penalty for a gun charge
10:44:33 22 and essentially wipe out the statute?

10:44:39 23 MR. LOWELL: Wipe out the statute, judge, but it
10:44:39 24 will be as a defect in this case.

10:44:40 25 THE COURT: We'll take a look.

10:44:42 1 MR. LOWELL: And that's all I'm asking you to
10:44:43 2 do.

10:44:44 3 THE COURT: Okay.

10:44:44 4 MR. LOWELL: I know by your smile that means
10:44:46 5 you're likely skeptical.

10:44:48 6 THE COURT: No, no, I didn't mean I was
10:44:51 7 skeptical, it's kind --

10:44:53 8 MR. LOWELL: Interesting concept.

10:44:54 9 THE COURT: Interesting concept.

10:44:56 10 MR. LOWELL: Thank you, I think it's an
10:44:57 11 interesting concept myself, the third is something the Court
10:45:00 12 is used to, which will be the standard on the sufficiency,
10:45:03 13 especially as connected to the Second Amendment as applied.
10:45:07 14 As indicated, that will be in Your Honor's and the counsel's
10:45:11 15 possession by midafternoon at the latest.

10:45:13 16 THE COURT: Okay.

10:45:14 17 MR. LOWELL: And I understand the Court's
10:45:16 18 intentions is to reserve accordingly.

10:45:18 19 THE COURT: But I appreciate you letting me know
10:45:20 20 what is coming.

10:45:24 21 Anything else that we need to address?

10:45:29 22 MR. HINES: I think for just housekeeping, who
10:45:33 23 are they calling?

10:45:34 24 MR. LOWELL: The first witnesses depending on
10:45:37 25 who is in the courtroom is Jason Turner, and the second

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10:45:39 1 witness will be Ron Palimere, and then we'll see where we're
10:45:44 2 at.

10:45:52 3 MR. HINES: All right. We'll take the morning
10:45:54 4 recess I guess and continue. Is that what Your Honor would
10:45:57 5 like us to do?

10:45:58 6 THE COURT: Sure.

10:45:58 7 MR. HINES: Thank you.

10:46:01 8 COURTROOM DEPUTY: All rise.

10:46:39 9 (A brief recess was taken.)

11:10:17 10 COURTROOM DEPUTY: All rise.

11:12:02 11 (Jury entering the courtroom at 11:12 a.m.)

11:12:19 12 THE COURT: All right, everyone, welcome back,
11:12:36 13 again, everyone else please be seated. Mr. Lowell, what's
11:12:39 14 next?

11:12:40 15 MR. LOWELL: What's next, Your Honor, is that we
11:12:42 16 would like Jason Turner to be a witness in this case.

11:12:48 17 COURTROOM DEPUTY: Please raise your right hand.
11:12:57 18 Please state and spell your full name for the record.

11:13:09 19 THE WITNESS: Jason Turner, J-A-S-O-N,
11:13:15 20 T-U-R-N-E-R.

11:13:17 21 JASON TURNER, having been duly sworn was
11:13:22 22 examined and testified as follows:

11:13:25 23 DIRECT EXAMINATION

11:13:26 24 BY MR. LOWELL:

11:13:33 25 Q. Good morning, Mr. Turner. Without giving us your

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11:13:37 1 specific address, can you tell us where you live?

11:13:40 2 A. Wilmington, Delaware.

11:13:41 3 Q. How long have you lived in Wilmington?

11:13:43 4 A. Five years.

11:13:46 5 Q. Calling your attention to the year of 2018, where
11:13:50 6 were you employed?

11:13:51 7 A. StarQuest Shooters and Survival Supply.

11:13:54 8 Q. What is that store?

11:13:55 9 A. It's a gun shop and survival store.

11:13:58 10 Q. And how long had you been employed there by 2018?

11:14:01 11 A. Five or six years.

11:14:03 12 Q. Prior to that, did you work in some other form of
11:14:06 13 store that sold firearms or survival equipment?

11:14:09 14 A. No.

11:14:10 15 Q. Where are you employed today?

11:14:11 16 A. U.S. Mint, Philadelphia.

11:14:14 17 Q. Got it.

11:14:15 18 So calling your attention to that day, do you
11:14:18 19 remember a day of -- I'm sorry, who is the owner of that
11:14:21 20 store?

11:14:22 21 A. Ron Palimere, junior.

11:14:24 22 Q. Is he presently still the owner of that store?

11:14:27 23 A. As far as I know.

11:14:28 24 Q. Do you have any contact with him these days?

11:14:31 25 A. No.

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- 11:14:31 1 Q. At that time in-- I want to call your attention to
11:14:35 2 the month of October of 2018, and specifically, I want to
11:14:38 3 talk to you about October the 12th of 2018, okay?
- 11:14:42 4 A. Okay.
- 11:14:43 5 Q. Were you employed and working on that day?
- 11:14:45 6 A. October the 12th, and October 18th.
- 11:14:51 7 Q. Those are the two days you remember working?
- 11:14:53 8 A. Yeah, as far as I remember.
- 11:14:55 9 Q. So let's talk about the 12th, okay?
- 11:14:57 10 A. Okay.
- 11:14:57 11 Q. What's your normal schedule, do you work every day --
11:15:01 12 in that period of time did you work every day in the store?
- 11:15:04 13 A. At least two days off a week depending.
- 11:15:07 14 Q. Okay. But you remember on the 12th, when we're
11:15:10 15 talking about a gun sale that occurred with Hunter, you were
11:15:13 16 there that day?
- 11:15:15 17 A. Yes.
- 11:15:15 18 Q. What is your job at that period, on that day, what's
11:15:19 19 your job at the store?
- 11:15:20 20 A. Key holder, background, like run the NIC system, sell
11:15:27 21 firearms.
- 11:15:28 22 Q. Sometimes you would sell?
- 11:15:30 23 A. Correct.
- 11:15:30 24 Q. When you say run the NICS, N-I-C-S, that is the
11:15:33 25 background check?

Turner - direct

- 11:15:34 1 A. Correct.
- 11:15:35 2 Q. You're not just the person who works in the back,
11:15:38 3 sometimes you're selling, is that true?
- 11:15:40 4 A. Correct.
- 11:15:40 5 Q. So on that date in particular, were you on the sales
11:15:44 6 floor, do you remember?
- 11:15:45 7 A. I might have been on the sales floor, might have not
11:15:48 8 been on the sales floor.
- 11:15:50 9 Q. On that day, do you recall the first the time that
11:15:53 10 you became aware that Hunter was in the store?
- 11:15:55 11 A. When the background check was brought to me because
11:15:58 12 at that time it was in the evening, and I was running
11:16:01 13 background checks.
- 11:16:02 14 Q. So at that point of the day, your job was to run
11:16:05 15 background checks? Were there others that day that were
11:16:08 16 purchasing weapons?
- 11:16:10 17 A. Correct.
- 11:16:11 18 Q. So you would run those for whoever needed to have
11:16:14 19 that done?
- 11:16:14 20 A. Yup.
- 11:16:14 21 Q. At that point then, you're in the back room, is that
11:16:17 22 right?
- 11:16:17 23 A. In the back room, out front, answering questions for
11:16:21 24 the staff.
- 11:16:21 25 Q. Right. When it comes to running a background check,

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- 11:16:24 1 do you do that in the front or do you do that in the back?
- 11:16:27 2 A. In the back.
- 11:16:28 3 Q. You do it by way of some computer or laptop?
- 11:16:31 4 A. Yes.
- 11:16:31 5 Q. Looking at that day, you became aware of Hunter being
11:16:34 6 in the store when you ran a background check?
- 11:16:37 7 A. Background check, paper was brought to me, so the
11:16:42 8 4473 was brought to me.
- 11:16:44 9 Q. When you say the 4473, you mean the ATF form that
11:16:49 10 somebody filled out?
- 11:16:50 11 A. Correct.
- 11:16:50 12 Q. You said evening. Do you know the time period?
- 11:16:53 13 A. Not off the top of my head.
- 11:16:55 14 Q. Can we put on the screen government Exhibit 12. 12A,
11:17:09 15 I'm sorry. Can you see that on your screen, Mr. Turner?
- 11:17:13 16 A. Uh-huh.
- 11:17:14 17 Q. Do you recognize what that is?
- 11:17:16 18 A. That would be the printout from the NIC system.
- 11:17:19 19 Q. And the NIC system is what we are referring to as the
11:17:21 20 background check?
- 11:17:22 21 A. Correct.
- 11:17:23 22 Q. And was it your understanding by looking at this that
11:17:26 23 you're the one who ran that check that day?
- 11:17:28 24 A. Submitted by me.
- 11:17:30 25 Q. Do you see at the bottom it says your name?

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- 11:17:33 1 A. Yes, that's me.
- 11:17:34 2 Q. You would have done that. Do you see the time of
- 11:17:37 3 this, it says created 6:36 on top, created date
- 11:17:43 4 October 12th?
- 11:17:43 5 A. Yes.
- 11:17:44 6 Q. That would indicate what?
- 11:17:45 7 A. The time.
- 11:17:45 8 Q. The time of?
- 11:17:47 9 A. When it was created.
- 11:17:48 10 Q. Meaning the time you ran the check?
- 11:17:50 11 A. Correct.
- 11:17:51 12 Q. And if you look at the bottom, it says retrieve date,
- 11:17:54 13 do you see that?
- 11:17:56 14 A. Correct.
- 11:17:56 15 Q. And you see the time?
- 11:18:00 16 A. One minute apart.
- 11:18:01 17 Q. Meaning that you ran the check and the results came
- 11:18:03 18 back in a minute?
- 11:18:04 19 A. Yes.
- 11:18:04 20 Q. And the results were to proceed?
- 11:18:06 21 A. Correct.
- 11:18:06 22 Q. So looking at this, would this be the time that you
- 11:18:10 23 first became aware that Hunter was in the store seeking to
- 11:18:13 24 purchase something?
- 11:18:15 25 A. No, I would have had his paperwork in my hand, I

Turner - direct

11:18:18 1 would have read the paperwork.

11:18:19 2 Q. Somewhat right before 6:36?

11:18:23 3 A. Correct.

11:18:23 4 Q. So you're in the back room, who brings you the
11:18:30 5 paperwork?

11:18:30 6 A. Gordon brought me the paperwork.

11:18:30 7 Q. Gordon Cleveland?

11:18:31 8 A. Correct.

11:18:31 9 Q. When he brought you the paperwork, when you say
11:18:34 10 paperwork, am I understanding you to say that that included
11:18:37 11 the 4473 form?

11:18:39 12 A. Yes.

11:18:39 13 Q. Was there anything else?

11:18:40 14 A. A copy of the passport.

11:18:42 15 Q. Was it a copy of the passport or the actual passport?

11:18:45 16 A. Whatever is in that paperwork bundle from, with the
11:18:51 17 4473, that's what he brought me.

11:18:52 18 Q. And when you got the form, I want you to be clear
11:18:56 19 about this, you got the 4473, was Hunter's signature on the
11:19:02 20 form at that point?

11:19:04 21 A. No, it was not, because it was my -- the way you do
11:19:09 22 it, is you review the form making sure that all the boxes
11:19:13 23 are checked, making sure that all the information is on the
11:19:17 24 form properly. You can't run a background check until it's
11:19:20 25 been signed.

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- 11:19:20 1 Q. But you just told me a minute ago --
- 11:19:23 2 A. I did not run his background check until it was
- 11:19:26 3 signed.
- 11:19:26 4 Q. So let me --
- 11:19:28 5 A. When I --
- 11:19:29 6 Q. Stop, stop, stop, let's me get the sequence, a moment
- 11:19:33 7 ago you said when you got the form it was not signed?
- 11:19:35 8 A. Correct.
- 11:19:36 9 Q. Did you get the form later when it was signed?
- 11:19:38 10 A. Yes.
- 11:19:38 11 Q. Let's talk about the sequence?
- 11:19:40 12 A. Okay.
- 11:19:40 13 Q. Mr. Cleveland comes in and brings the form and it's
- 11:19:43 14 not signed?
- 11:19:44 15 A. Correct.
- 11:19:45 16 Q. And he brought in a copy of some form of
- 11:19:52 17 identification at that point or the actual thing?
- 11:19:53 18 MR. WISE: Your Honor, I object at this point,
- 11:19:55 19 the questions are all leading. Which is fine on cross,
- 11:19:57 20 they're calling him, they should ask sort of what happened.
- 11:20:01 21 MR. LOWELL: Okay, I will do it.
- 11:20:02 22 BY MR. LOWELL:
- 11:20:03 23 Q. All right. Let's start over. What is it, the first
- 11:20:06 24 time that you saw the form, that you saw along with the
- 11:20:10 25 form, if anything?

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11:20:12 1 A. So the form should have had the form itself, and a
11:20:18 2 copy of the identification because that's what the form
11:20:21 3 requires. Everything on there, on that form, all the
11:20:25 4 directions are right there. Not only for the purchaser, but
11:20:28 5 for the person disposing of the firearm. The person selling
11:20:31 6 the gun. It's all on there.

11:20:34 7 Q. That's in the -- sorry, I want to take this in small
11:20:38 8 pieces. When you say it's all there, you mean the
11:20:41 9 directions --

11:20:42 10 A. The directions are on there.

11:20:43 11 Q. Sir --

11:20:44 12 THE COURT: Mr. Turner, see this guy down here,
11:20:47 13 that's Dale, he's my court reporter and he can only take
11:20:51 14 down one person at a time, so if you talk while Mr. Lowell
11:20:54 15 is talking, he gets mad at me, so you've got to wait for him
11:20:58 16 to finish and then he'll wait for you to finish your answer.
11:21:00 17 Got it.

11:21:01 18 THE WITNESS: Be mad at me, that's all right.

11:21:04 19 BY MR. LOWELL:

11:21:04 20 Q. That's all right, he's been mad at me the whole
11:21:07 21 trial.

11:21:07 22 So when my question was, Mr. Cleveland comes in
11:21:13 23 with a copy and you said to me there are everything, all
11:21:18 24 that's on the form, that means directions for the seller and
11:21:21 25 for the buyer, right?

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11:21:23 1 A. Correct.

11:21:24 2 Q. And what are some of the directions for the seller?

11:21:29 3 A. In the individual boxes, it says sign here, or this

11:21:34 4 information is required here.

11:21:36 5 Q. For the seller?

11:21:37 6 A. Yeah.

11:21:38 7 Q. And what --

11:21:39 8 A. You need to have a copy, a photographic copy, so I

11:21:42 9 need a picture of a state ID, or some other federally issued

11:21:47 10 identification.

11:21:49 11 Q. Okay.

11:21:49 12 A. So a passport.

11:21:51 13 Q. In this case you said a passport?

11:21:54 14 A. Correct.

11:21:54 15 Q. When Mr. Cleveland first comes in, just to be as

11:21:58 16 clear as we can be about the sequence, he has the form which

11:22:01 17 is not signed; is that right?

11:22:03 18 A. Yes.

11:22:04 19 Q. And he has a copy of the passport?

11:22:06 20 A. Yes.

11:22:06 21 Q. Now, when he came in with that form, was Mr. Palimere

11:22:10 22 in the office at the same time?

11:22:12 23 A. No.

11:22:12 24 Q. Where was he?

11:22:13 25 A. I don't know.

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- 11:22:14 1 Q. Did Mr. Palimere come on the scene in this exchange
11:22:18 2 with Mr. Cleveland at any time?
- 11:22:20 3 A. Not that I know of.
- 11:22:22 4 Q. So Mr. Cleveland came in, and he presented this to
11:22:25 5 you, and he handed this to you, right?
- 11:22:28 6 A. No, he put it in a pile because there are four other
11:22:32 7 checks that were going on.
- 11:22:33 8 Q. So it wasn't just -- are you indicating that what you
11:22:36 9 were working on was not just the form that had anything to
11:22:39 10 do with Hunter?
- 11:22:40 11 A. No, I was running probably three other backgrounds.
- 11:22:43 12 Q. Was this put on the pile?
- 11:22:44 13 A. Right next to it, right in order.
- 11:22:47 14 Q. And did Mr. Cleveland wait when you did that then?
- 11:22:51 15 A. No, he went back out to attend to the sales floor.
- 11:22:54 16 Q. Without the form and without the copy of the
11:22:56 17 passport?
- 11:22:57 18 A. Correct.
- 11:22:58 19 Q. When he went back out to the floor, did you see what
11:23:02 20 he did?
- 11:23:02 21 A. No.
- 11:23:03 22 Q. How long did it take you, then, to run the checks you
11:23:07 23 did by the time you went to the one that's up on the screen?
- 11:23:11 24 A. I have no idea. That was 2018.
- 11:23:13 25 Q. So -- but is it your memory, though, that there were

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11:23:18 1 ones you were working on before this?

11:23:20 2 A. Yes.

11:23:20 3 Q. So in a time sequence, if you run this at 6:36, that

11:23:25 4 would mean that you got this form sometime prior and you

11:23:30 5 were working on other things before you got this?

11:23:32 6 A. On other background checks, correct.

11:23:34 7 Q. But you're sure that the form you got had no

11:23:38 8 signature on it?

11:23:38 9 A. Positive.

11:23:40 10 Q. Then you get to this one. Did you have any

11:23:43 11 conversation with Mr. Cleveland when he first brought you

11:23:46 12 the form without the signature and then the copy?

11:23:49 13 A. No.

11:23:49 14 Q. He just left it for you?

11:23:51 15 A. Yes.

11:23:51 16 Q. And then he left?

11:23:53 17 A. Went back out on the sales floor.

11:23:55 18 Q. And what did you do next?

11:23:57 19 A. Took the next one in the pile.

11:23:59 20 Q. Which was not yet Hunter's?

11:24:02 21 A. Probably not Hunter's, maybe it was.

11:24:04 22 Q. You don't know?

11:24:05 23 A. I don't remember.

11:24:06 24 Q. Okay. Eventually you got to his?

11:24:08 25 A. Yep.

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- 11:24:08 1 Q. And you ran that at that point?
- 11:24:11 2 A. No.
- 11:24:11 3 Q. What did you do?
- 11:24:12 4 A. You have to review the form.
- 11:24:13 5 Q. Okay. So you reviewed the form and what happened?
- 11:24:16 6 A. Make sure there is a first name in the first name box
- 11:24:19 7 and a last name in the last name box, make sure all of the
- 11:24:22 8 boxes are checked correctly, and then you open it up and you
- 11:24:26 9 make sure that the buyer has signed the form.
- 11:24:29 10 Q. But when you did that --
- 11:24:30 11 A. Before you would even type in your log in, you look
- 11:24:33 12 at all these things.
- 11:24:35 13 Q. Okay.
- 11:24:35 14 A. If it was missing information, close the form, go
- 11:24:40 15 find my salesperson, make him get me the right information.
- 11:24:45 16 Q. Was it missing information?
- 11:24:46 17 A. It was missing information.
- 11:24:48 18 Q. Okay. So among other things, it was missing a
- 11:24:51 19 signature?
- 11:24:51 20 A. Yes.
- 11:24:52 21 Q. So then what happened?
- 11:24:53 22 A. Took it to the sales floor, to my sales associate.
- 11:24:56 23 Q. You went outside?
- 11:24:57 24 A. Went out to the front of the store, correct.
- 11:25:00 25 Q. Did you bring anything with you when you went out to

11:25:02 1 the floor?

11:25:03 2 A. The paperwork.

11:25:03 3 Q. Meaning?

11:25:04 4 A. The 4473 and a copy of the passport.

11:25:07 5 Q. And then when you went back to the floor, did you

11:25:10 6 speak to Mr. Cleveland?

11:25:11 7 A. Yes.

11:25:11 8 Q. What is it that you said to Mr. Cleveland?

11:25:14 9 A. I told him that he was missing the supplementary

11:25:17 10 identification because you can't do just a passport alone,

11:25:21 11 it has no address on it. And it didn't have a signature.

11:25:24 12 Q. It did not yet?

11:25:26 13 A. Correct.

11:25:26 14 Q. So part of the form was filled, whatever you said,

11:25:31 15 you went out and spoke to Mr. Cleveland and told him what

11:25:34 16 you just said?

11:25:35 17 A. Uh-huh.

11:25:36 18 Q. You only spoke to Mr. Cleveland?

11:25:38 19 A. Correct.

11:25:38 20 Q. Did you at any point when you went back out talk to

11:25:42 21 Mr. Biden at all?

11:25:43 22 A. No.

11:25:43 23 Q. Never?

11:25:44 24 A. No.

11:25:44 25 Q. Not a word?

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- 11:25:46 1 A. No.
- 11:25:46 2 Q. You didn't ask Mr. Biden for anything?
- 11:25:48 3 A. No.
- 11:25:48 4 Q. You didn't seek him to go and get some other form of
- 11:25:51 5 papers?
- 11:25:52 6 A. No.
- 11:25:52 7 Q. You just spoke to Mr. Cleveland?
- 11:25:54 8 A. Correct.
- 11:25:54 9 Q. After you spoke to Mr. Cleveland, what did
- 11:25:57 10 Mr. Cleveland do?
- 11:25:57 11 A. He went and followed the orders that he was given, he
- 11:26:00 12 got a supplementary I.D., and had him sign the paperwork.
- 11:26:06 13 Q. At that point?
- 11:26:06 14 A. At that point.
- 11:26:07 15 Q. How do you know that that is what Mr. Cleveland did?
- 11:26:08 16 A. Because I waited by the back office door.
- 11:26:11 17 Q. Say it again?
- 11:26:12 18 A. I waited by the back office door.
- 11:26:15 19 Q. And watched Mr. Cleveland?
- 11:26:16 20 A. Correct.
- 11:26:16 21 Q. Where was Mr. Biden?
- 11:26:18 22 A. In the front of the store.
- 11:26:20 23 Q. Where?
- 11:26:21 24 A. Over by the sales counter.
- 11:26:23 25 Q. You told Mr. Cleveland something and you went back to

11:26:26 1 the door?

11:26:26 2 A. Yep.

11:26:27 3 Q. And Mr. Cleveland went outside?

11:26:28 4 A. No, Mr. Cleveland never left the store.

11:26:31 5 Q. You didn't talk to Mr. Biden, we understand that?

11:26:33 6 A. Correct.

11:26:34 7 Q. You just said something about a supplemental form of

11:26:36 8 identification?

11:26:37 9 A. Uh-huh.

11:26:38 10 Q. Because you told Mr. Cleveland that the passport was

11:26:40 11 not sufficient?

11:26:41 12 A. Correct.

11:26:43 13 Q. Can you put up government Exhibit 12 -- 10A, please.

11:26:54 14 And it's in evidence.

11:26:55 15 So do you recognize this five years later as the

11:26:59 16 form or just because it's on the screen?

11:27:05 17 A. That looks about right.

11:27:07 18 Q. Okay. Can you turn to the next page? And you see on

11:27:11 19 the next page it says U.S. passport 01052027?

11:27:17 20 A. Uh-huh.

11:27:17 21 Q. Do you recognize that writing?

11:27:19 22 A. That looks like mine.

11:27:20 23 Q. And you are the person that put that on that says

11:27:24 24 U.S. passport, correct?

11:27:26 25 A. Correct.

Turner - direct

- 11:27:26 1 Q. A minute ago you said you went to speak to
11:27:29 2 Mr. Cleveland and you said to him that that wasn't
11:27:31 3 sufficient because it did not have an address on it. And
11:27:34 4 you see the passport is what you wrote on, right?
- 11:27:37 5 A. Correct.
- 11:27:39 6 Q. When did you write that on it?
- 11:27:40 7 A. Somewhere in filling out his NICS check.
- 11:27:44 8 Q. You see the books next to it, line 18(b), right under
11:27:51 9 it?
- 11:27:51 10 A. Correct.
- 11:27:51 11 Q. It says supplemental government issued documentation,
11:27:55 12 if the identification document does not show current
11:27:58 13 residence, government issued photo identification, do you
11:28:05 14 see that?
- 11:28:05 15 A. Yes.
- 11:28:05 16 Q. If it doesn't show residence, do you see that?
- 11:28:09 17 A. Correct.
- 11:28:09 18 Q. You a moment ago said that the passport doesn't have
11:28:13 19 somebody's address?
- 11:28:14 20 A. Correct.
- 11:28:14 21 Q. Then you said that you told Mr. Cleveland something,
11:28:16 22 right?
- 11:28:16 23 A. He needed to get further government issued
11:28:22 24 identification with an address on it.
- 11:28:25 25 Q. Right. And if he did, what would you do with that?

Turner - direct

- 11:28:29 1 A. I would have written it right in there.
- 11:28:32 2 Q. But you don't see such writing in there, do you?
- 11:28:33 3 A. When I wrote that out, I wrote the car registration.
- 11:28:34 4 Q. You don't see such a writing in there, do you?
- 11:28:36 5 A. When I wrote that out, I wrote car registration.
- 11:28:40 6 Q. When you wrote this out, you wrote car registration
- 11:28:47 7 here or car registration there?
- 11:28:49 8 A. 18(b), car registration.
- 11:28:53 9 Q. You wrote it?
- 11:28:54 10 A. I wrote it.
- 11:28:56 11 Q. Where is it?
- 11:28:57 12 A. I wrote vehicle registration in there.
- 11:29:00 13 Q. I'm asking you if you did and this is the form, where
- 11:29:03 14 is it on the form that you say you wrote?
- 11:29:06 15 A. It's not there.
- 11:29:07 16 MR. WISE: Your Honor, may we approach side-bar?
- 11:29:09 17 (Side-bar discussion.
- 11:31:03 18 MR. WISE: So this line of questioning was
- 11:31:03 19 excluded, he has a memory of writing it, he hasn't
- 11:31:03 20 established when, he's not impeached him, he said he
- 11:31:03 21 remembered writing it in. He's asking him about the day,
- 11:31:03 22 but he's not distinguishing, and this is simply irrelevant,
- 11:31:03 23 a secondary form of ID is irrelevant.
- 11:31:03 24 MR. LOWELL: Wow. I have no idea he was about
- 11:31:03 25 to say what he just said, that he wrote in a different form

Turner - direct

11:31:03 1 of identification.

11:31:03 2 THE COURT: He's confused as to the time.

11:31:03 3 MR. LOWELL: I know he is and I'm not going
11:31:03 4 there but he said it, so I just wanted to ask who wrote it,
11:31:03 5 where is it, I didn't know he was going to say that, judge.

11:31:03 6 MR. WISE: He did know that because the Jakes
11:31:03 7 that we gave you from Palimere, said Palimere told him to
11:31:03 8 write it.

11:31:03 9 MR. LOWELL: Two years later.

11:31:03 10 MR. WISE: That's not your question.

11:31:03 11 MR. LOWELL: I'm asking him on that day, I'm
11:31:03 12 asking him on that day.

11:31:03 13 THE COURT: What you can do now is you can just
11:31:03 14 say there is nothing about the vehicle registration. It is
11:31:03 15 not written in this box on this version of the form.

11:31:03 16 MR. LOWELL: Okay. But let's be clear on the
11:31:03 17 record, when you say I knew he was going -- I had no idea he
11:31:03 18 was going to say that.

11:31:03 19 THE COURT: I take your word for that. I didn't
11:31:03 20 know he was going to say that.

11:31:03 21 (End of side-bar.

11:31:06 22 BY MR. LOWELL:

11:31:15 23 Q. So what I was asking you is from whatever you just
11:31:17 24 said about the testimony of anything having to do with the
11:31:20 25 registration, you and I can be clear that on this form that

Turner - direct

11:31:24 1 has the date on it, there is no such reference in
11:31:27 2 line 18(b), right?

11:31:28 3 A. There should be.

11:31:29 4 Q. Okay. So you went out, spoke to Mr. Cleveland, you
11:31:37 5 saw Mr. Biden do something, come back, right? And then did
11:31:42 6 you then go back into the back room?

11:31:45 7 A. Yes. Sat down and entered his information into the
11:31:48 8 NICS system.

11:31:49 9 Q. With the form as it presently then stood?

11:31:53 10 A. Correct.

11:31:53 11 Q. As the form as it then was in existence?

11:31:57 12 A. (Witness nodded.

11:31:59 13 Q. Did Mr. Cleveland go back inside with you?

11:32:01 14 A. He was still on the sales floor.

11:32:03 15 Q. And Mr. Biden was still on the sales floor?

11:32:05 16 A. Correct. Nobody left the store.

11:32:07 17 Q. I'm sorry?

11:32:09 18 A. None of the staff left the store.

11:32:11 19 Q. Okay, I understand, I'm just trying to create the
11:32:15 20 time sequence, okay?

11:32:16 21 A. Sure.

11:32:16 22 Q. Now you get the form as you understood it to exist as
11:32:19 23 that looked, or maybe not, and you went and did the NICS?

11:32:23 24 A. Correct.

11:32:23 25 Q. And we showed you the NICS form. After that, how did

Turner - direct

11:32:30 1 you communicate, if you did, the results of that background
11:32:34 2 check to Mr. Cleveland or anybody else?

11:32:37 3 A. Well, if you scroll or focus on that form --

11:32:44 4 Q. I should go to the next page anyway, Mr. Radic, just
11:32:48 5 to make sure we're acclimated. On top where it says Colt
11:32:53 6 manufacturer, do you recognize that handwriting?

11:32:56 7 A. That looks like my handwriting.

11:32:58 8 Q. Where would you have put that on?

11:33:00 9 A. While I was running the form.

11:33:02 10 Q. Okay. And then there is a StarQuest Shooters stamp
11:33:06 11 and a number on the right, what is that, do you recognize
11:33:13 12 that?

11:33:13 13 A. That would be an address and the number on the right
11:33:15 14 would be the FFL.

11:33:18 15 Q. FFL meaning the license?

11:33:20 16 A. Correct.

11:33:20 17 Q. Who put that on?

11:33:22 18 A. That gets put on by the filing secretary.

11:33:24 19 Q. Is that stamp of the store's name and its license
11:33:27 20 number on the forms already?

11:33:28 21 A. No.

11:33:28 22 Q. Are they put in each time a gun is purchased?

11:33:32 23 A. Each time a gun is purchased.

11:33:34 24 Q. And then I see that there is, the blue name of Gordon
11:33:39 25 Cleveland and the signature, do you see that?

Turner - direct

- 11:33:41 1 A. Yes.
- 11:33:42 2 Q. And it says sales, do you see that?
- 11:33:43 3 A. Uh-huh.
- 11:33:44 4 Q. There is a date and that looks like your handwriting;
- 11:33:47 5 is that right?
- 11:33:47 6 A. Correct.
- 11:33:48 7 Q. How did that come about?
- 11:33:49 8 A. I probably dated it while sitting there.
- 11:33:53 9 Q. Was that before or after Mr. Cleveland signed it?
- 11:33:56 10 A. It would have been after Mr. Cleveland signed it.
- 11:33:58 11 Q. Would that be before or after you saw the form with
- 11:34:02 12 Mr. Hunter Biden's signature on it?
- 11:34:04 13 A. It would have been after.
- 11:34:05 14 Q. So now you ran the check, and my question was how did
- 11:34:09 15 you communicate proceed to whoever you needed to communicate
- 11:34:14 16 it to?
- 11:34:14 17 A. On the other page, I would have finished filling out
- 11:34:17 18 the document where it said proceed. Right there.
- 11:34:22 19 Q. So now --
- 11:34:23 20 A. He --
- 11:34:25 21 Q. Go ahead?
- 11:34:26 22 A. Proceed, put the date on there, and the NTN number,
- 11:34:30 23 which is a transaction number, and I would have put my name
- 11:34:33 24 in the box that said I ran it.
- 11:34:35 25 Q. Okay. I see that this date and the NICS number is in

Turner - direct

- 11:34:41 1 red ink, do you see that?
- 11:34:42 2 A. Uh-huh.
- 11:34:43 3 Q. As was the date next to Mr. Cleveland's name and
- 11:34:46 4 signature, and your name, Jason V. Turner is in black ink?
- 11:34:52 5 A. Right.
- 11:34:52 6 Q. Is that your handwriting for your name?
- 11:34:55 7 A. Yes.
- 11:34:55 8 Q. When did you put that on versus the red?
- 11:34:59 9 A. All at the same time.
- 11:35:01 10 Q. You switched pen colors?
- 11:35:03 11 A. Yes.
- 11:35:03 12 Q. How come?
- 11:35:04 13 A. Because the date, proceed and NTN number now stand
- 11:35:08 14 out on the form so during the yearly ATF audit it makes it
- 11:35:13 15 easier to see those numbers.
- 11:35:15 16 Q. And then when you did that, now you put the red in
- 11:35:18 17 and put your name, you still have that form; right?
- 11:35:22 18 A. Yes.
- 11:35:22 19 Q. And then what did you do with it?
- 11:35:24 20 A. Took the form and the firearm out front.
- 11:35:27 21 Q. So at the point at which you did this, did you have
- 11:35:30 22 the firearm back there as well?
- 11:35:32 23 A. Yes, because I needed the information off the gun.
- 11:35:35 24 Q. So Mr. Cleveland brought you the form at one point,
- 11:35:40 25 right?

Turner - direct

- 11:35:40 1 A. Uh-huh.
- 11:35:41 2 Q. And a copy of the passport; right? You went out and
- 11:35:48 3 spoke to Mr. Cleveland. When you went out to get
- 11:35:50 4 Mr. Cleveland and tell him about the form, is that when you
- 11:35:54 5 picked up the gun?
- 11:35:54 6 A. No, he brought the gun with him the first time.
- 11:35:57 7 Q. So I'm sorry I got confused. So the first time when
- 11:36:00 8 he comes in, he brings in the form, the copy of the
- 11:36:03 9 passport, and the gun?
- 11:36:04 10 A. Uh-huh.
- 11:36:05 11 Q. So the gun is no longer out on the showroom?
- 11:36:08 12 A. No.
- 11:36:09 13 Q. And you went back outside to tell Mr. Cleveland --
- 11:36:13 14 A. Out front, not outside.
- 11:36:15 15 Q. Outside of the back room?
- 11:36:17 16 A. Correct.
- 11:36:17 17 Q. To see Mr. Cleveland and talk to him, the gun was
- 11:36:20 18 behind, back in the back room?
- 11:36:22 19 A. Uh-huh.
- 11:36:22 20 Q. That never left?
- 11:36:23 21 A. No.
- 11:36:23 22 Q. Until you were done?
- 11:36:25 23 A. Correct.
- 11:36:26 24 Q. So now after you did this, you communicated to
- 11:36:29 25 Mr. Cleveland by bringing what?

Turner - direct

- 11:36:30 1 A. The form and the firearm.
- 11:36:32 2 Q. The form, the firearm, and the copy of the passport?
- 11:36:35 3 A. Correct.
- 11:36:35 4 Q. Did you ever see the actual passport?
- 11:36:37 5 A. No.
- 11:36:38 6 Q. Did he ever -- so you're saying he never, as you
- 11:36:42 7 remembered it, brought the actual passport, only a copy?
- 11:36:46 8 A. Mr. Cleveland made a copy.
- 11:36:48 9 Q. In the back room or in the front?
- 11:36:50 10 A. In the book room where the copier was.
- 11:36:52 11 Q. Did you see him do that?
- 11:36:54 12 A. It's down the hallway.
- 11:36:55 13 Q. I'm just asking, did you see him do that?
- 11:36:57 14 A. No.
- 11:36:58 15 Q. When did he do that?
- 11:36:59 16 A. Somewhere in between Mr. Biden filling out the form
- 11:37:01 17 and picking out his firearm.
- 11:37:04 18 Q. And then you took the gun, the form, and you went
- 11:37:08 19 back outside after the NICS check?
- 11:37:11 20 A. Uh-huh.
- 11:37:11 21 Q. And you gave them to Mr. Cleveland?
- 11:37:13 22 A. Correct.
- 11:37:14 23 Q. Still no conversation with Hunter?
- 11:37:16 24 A. Correct.
- 11:37:17 25 Q. And then what did you do thereafter?

Turner - direct

11:37:19 1 A. I went back to the back office to run more background
11:37:22 2 checks.

11:37:22 3 Q. And that was the end of your involvement at that
11:37:25 4 point that day?

11:37:27 5 A. Yes.

11:37:27 6 Q. Had any conversations with Mr. Palimere that day
11:37:30 7 about the form?

11:37:32 8 A. No.

11:37:32 9 Q. And he was not in the back room with you?

11:37:34 10 A. No.

11:37:35 11 Q. And then when the sale ended, did you have any
11:37:38 12 further conversations with Mr. Cleveland?

11:37:41 13 A. About football, whatever was going on that day, yeah.

11:37:46 14 Q. Say that again?

11:37:47 15 A. We worked together.

11:37:48 16 Q. No, I mean about the sale?

11:37:50 17 A. About the sale, no.

11:37:52 18 Q. Can I also show you what is in evidence as
11:37:56 19 government's Exhibit 13, and put it up on the screen,
11:38:00 20 please, Mr. Radic.

11:38:01 21 So we saw the NICS checks dated, you're doing it
11:38:08 22 at 6:36 and it comes back at 6:37, and you can see that this
11:38:12 23 is what, do you recognize this document?

11:38:14 24 A. That looks like a sales receipt from the shop.

11:38:16 25 Q. That's the way those sales receipts looked?

Turner - direct

- 11:38:19 1 A. At the time, yeah.
- 11:38:20 2 Q. And you see the date is the same date and the time is
- 11:38:24 3 6:53?
- 11:38:25 4 A. All right.
- 11:38:26 5 Q. Do you see that on top?
- 11:38:28 6 A. Yes.
- 11:38:28 7 Q. Okay. And you see the user of this is Gordon, that
- 11:38:32 8 means he's the salesperson?
- 11:38:34 9 A. Correct.
- 11:38:34 10 Q. And did you see that that day?
- 11:38:37 11 A. Maybe at night when we were locking up and doing the
- 11:38:41 12 last minute paperwork.
- 11:38:42 13 Q. So do you remember that you ran the check, and it
- 11:38:45 14 came back at 6:37, right?
- 11:38:48 15 A. Yes.
- 11:38:48 16 Q. And you see that this sale was completed at 6:53,
- 11:38:53 17 right?
- 11:38:53 18 A. Correct.
- 11:38:54 19 Q. That's 16 minutes between the two, right?
- 11:38:56 20 A. Yes.
- 11:38:56 21 Q. So did you know what happened between the time that
- 11:38:59 22 you ran the check and the time that the sale was completed?
- 11:39:03 23 A. No.
- 11:39:04 24 Q. Would that have been the time in which you brought
- 11:39:06 25 back the gun, the form, the copy of the passport?

Turner - direct

- 11:39:11 1 A. Probably.
- 11:39:12 2 Q. Because according to your sequence you --
- 11:39:15 3 A. You're not understanding how gun shop life is. It's
- 11:39:19 4 like going to the barber shop, we have regular customers
- 11:39:24 5 that would come in every day just to hang out, talk about
- 11:39:27 6 the local news. I can go to a gun shop today and spend two
- 11:39:34 7 hours in there and it not seem like anything.
- 11:39:38 8 Q. Okay.
- 11:39:38 9 A. So you're trying to set a time frame. That's not
- 11:39:43 10 going to happen. Like, I can literally go to a gun shop and
- 11:39:49 11 be there for an hour-and-a-half and it not seem like I was
- 11:39:52 12 there for an hour-and-a-half.
- 11:39:53 13 Q. I understand what you're saying. I get it. What I'm
- 11:39:56 14 asking you, though, since we have two date parts, we know
- 11:40:00 15 when the NICS was done and received right, that's not
- 11:40:03 16 anything but what it says, 6:36 and 37, and we know that
- 11:40:08 17 this sale occurs at 6:53, I'm asking you, is it in that
- 11:40:15 18 period between the two, that you had testified, that you
- 11:40:20 19 went back out, you had the gun, you had the form, you had
- 11:40:22 20 the photo ID, it had to happen in that period of time?
- 11:40:23 21 A. You're saying that the form ran in a minute.
- 11:40:26 22 Q. 6:37 is when it came back?
- 11:40:27 23 A. Now I got to sit and write all that information that
- 11:40:30 24 was on there. So there is your 16 minutes, I write slow.
- 11:40:34 25 Q. I see. So that time was taken from the time between

Turner - direct

11:40:38 1 your writing it, coming back out, and that's when the sale
11:40:40 2 was consummated?

11:40:42 3 A. Yes.

11:40:42 4 Q. Did you see that sale being running up then in that
11:40:45 5 period?

11:40:46 6 A. No. I literally would have been going back to run
11:40:50 7 more backgrounds.

11:40:51 8 Q. I understand, but your understanding is that time
11:40:53 9 period between the NICS and the sale, was taken up by you?

11:40:57 10 A. Okay.

11:40:58 11 MR. WISE: Objection, that's not what he said.

11:41:00 12 BY MR. LOWELL:

11:41:00 13 Q. Let me ask him, let me do it again. We know two
11:41:03 14 times, right?

11:41:05 15 A. Yes.

11:41:06 16 MR. WISE: Now he's leading him.

11:41:07 17 BY MR. LOWELL:

11:41:08 18 Q. Well that's already been established?

11:41:10 19 MR. WISE: He should ask non-leading questions.

11:41:12 20 BY MR. LOWELL:

11:41:12 21 Q. So between the time of 6:37 when the NICS check was
11:41:16 22 done, and 6:53 when this is consummated, what happened?

11:41:20 23 MR. WISE: Asked and answered, he's already
11:41:22 24 answered it.

11:41:23 25 THE WITNESS: I put on my ritual robes and went

Turner - direct

11:41:26 1 and sat in a marble room, what do you want me to say to you
11:41:30 2 counselor?

11:41:30 3 BY MR. LOWELL:

11:41:30 4 Q. I would like to you to tell me as best as you can
11:41:33 5 remember -- let me finish sir, whether that was the time
11:41:36 6 period it took for to you run the NICS check and then to do
11:41:39 7 the paperwork, come back outside with the gun, the form, the
11:41:43 8 NICS check completed?

11:41:44 9 MR. WISE: He's already asked the question and
11:41:46 10 he's answered it.

11:41:48 11 THE COURT: So Mr. Turner, if anything that you
11:41:51 12 remember, you can respond, you can respond. If you don't
11:41:55 13 remember something, you don't have to make something up,
11:41:58 14 whatever you remember to answer Mr. Lowell's question, you
11:42:01 15 can do so.

11:42:02 16 THE WITNESS: Sure. I ran his background check.
11:42:06 17 I filled out the rest of the form. I took the gun out to
11:42:10 18 the front.

11:42:13 19 BY MR. LOWELL:

11:42:13 20 Q. And then the sale was consummated?

11:42:16 21 A. As far as I know.

11:42:17 22 Q. Thank you. I have no other questions. Thank you.

11:42:22 23 THE COURT: Thank you.

11:42:23 24 Cross.

11:42:24 25 MR. WISE: Thank you, Your Honor.

11:42:26 1

CROSS-EXAMINATION

11:42:26 2

BY MR. WISE:

11:42:32 3

Q. Good morning, Mr. Turner.

11:42:33 4

A. Good morning.

11:42:34 5

Q. So you were subpoenaed by the defense as a witness,
11:42:37 6 **right?**

11:42:38 7

A. Correct.

11:42:38 8

Q. Did they try to talk with you before they did that,
11:42:41 9 **before you testified here today?**

11:42:43 10

A. That's a whole mess of stuff right there.

11:42:47 11

Q. Really?

11:42:49 12

A. I got the subpoena, I had to call them.

11:42:51 13

Q. Uh-huh.

11:42:53 14

A. And they can't be on time for nothing.

11:42:57 15

Q. What does that mean?

11:42:58 16

A. I work third shift.

11:43:00 17

Q. Uh-huh.

11:43:01 18

A. And so I should be sleeping right now.

11:43:05 19

Q. What does third shift mean?

11:43:07 20

A. Third shift, that's on the other side of the clock
11:43:10 21 **from everybody else, I go in at 6:00 p.m., I get done at 5**
11:43:15 22 **a.m.**

11:43:15 23

Q. Is that what you got done today?

11:43:17 24

A. Yes.

11:43:18 25

Q. All right. So I just have a -- you and I have never

11:43:22 1 met, right, Mr. Turner?

11:43:24 2 A. I don't even know you from nobody.

11:43:26 3 Q. I just have a couple of questions?

11:43:29 4 THE COURT: Did you introduce yourself?

11:43:32 5 MR. WISE: I'm not sure. I will.

11:43:35 6 THE COURT: He said he doesn't know you.

11:43:37 7 BY MR. WISE:

11:43:37 8 Q. My name is Leo wise, I represent the United States in
11:43:40 9 this case. Nice to meet you.

11:43:43 10 So if we could have government Exhibit 10A on
11:43:48 11 the screen. This is the form that Mr. Biden filled out that
11:43:53 12 Mr. Lowell asked you about, right?

11:43:55 13 A. Correct. Actually that form is wrong.

11:43:58 14 THE COURT: Just take it one step at a time,
11:44:00 15 only answer the questions that he asks.

11:44:02 16 THE WITNESS: Yes, ma'am.

11:44:03 17 BY MR. WISE:

11:44:03 18 Q. So the first page, this is all filled out by the
11:44:06 19 person buying the gun; right?

11:44:09 20 A. Except for that top corner on the right-hand side.

11:44:13 21 Q. Got it. So looking at the form as it is on the
11:44:16 22 screen, this is all information that comes in this case from
11:44:21 23 Mr. Biden himself, right?

11:44:23 24 A. Correct.

11:44:23 25 Q. That includes, if we could highlight the questions in

11:44:27 1 the middle, and it's question E, if you could enlarge that
11:44:35 2 as well. That includes are you an unlawful user of or
11:44:43 3 addicted to marijuana or depressant stimulant narcotic drug
11:44:48 4 or any other controlled substance, right?

11:44:51 5 A. Correct.

11:44:51 6 Q. Now you run the background checks, correct?

11:44:53 7 A. Correct.

11:44:53 8 Q. The background checks don't tell you whether the
11:44:58 9 person trying to buy the gun has answered that question
11:45:01 10 truthfully or they've lied, right?

11:45:04 11 A. Correct.

11:45:04 12 Q. For that question, you have to depend on whoever is
11:45:08 13 buying the gun, being truthful about their own drug use or
11:45:12 14 addiction; right?

11:45:14 15 A. Correct.

11:45:14 16 Q. Nothing you do in the one minute when they run that
11:45:18 17 check tells you whether they're using drugs or addicted to
11:45:23 18 it, right?

11:45:24 19 A. Correct.

11:45:24 20 Q. And when you got this form, we can come out of that
11:45:29 21 -- when you got this form to run the background check like
11:45:32 22 you said you did every day or whenever you worked, this was
11:45:36 23 all filled out; right?

11:45:38 24 A. Correct.

11:45:38 25 Q. And it had been filled out by Mr. Biden, right?

Turner - redirect

11:45:42 1 A. Correct.

11:45:42 2 Q. And you said you noticed it was missing his
11:45:47 3 signature; correct?

11:45:48 4 A. Correct.

11:45:48 5 Q. So that's what you raised; right?

11:45:52 6 A. Yes.

11:45:52 7 Q. You raised it with Mr. Cleveland or whomever?

11:45:55 8 But there was nothing, nothing from this first
11:45:58 9 page that he hadn't filled out?

11:46:00 10 A. No, the first page was correct.

11:46:04 11 MR. WISE: That's it, Your Honor. Thank you.

11:46:06 12 THE COURT: Thank you.

11:46:08 13 Redirect.

11:46:08 14 REDIRECT EXAMINATION

11:46:09 15 BY MR. LOWELL:

11:46:10 16 Q. You understand, sir, can we go back to the first page
11:46:14 17 of government Exhibit 10A, please? There we are again. You
11:46:25 18 said that this is not right. Why wasn't this right?

11:46:28 19 MR. WISE: Objection, Your Honor.

11:46:29 20 THE COURT: Sustained.

11:46:31 21 MR. LOWELL: All right.

11:46:32 22 BY MR. LOWELL:

11:46:32 23 Q. Did you see Mr. Biden check those boxes?

11:46:35 24 A. No.

11:46:36 25 Q. So when Mr. Wise just asked you whether Mr. Biden

11:46:41 1 checked those, you have no idea whether he did or not or
11:46:44 2 when?

11:46:45 3 A. Well, it wouldn't have been Gordon, so unless
11:46:49 4 somebody else filled that form out for him.

11:46:51 5 Q. Right. But the next page, when you saw the boxes
11:46:57 6 checked, that signature wasn't on it?

11:46:59 7 A. It was not on it. And I went out front.

11:47:03 8 Q. As between-- that's all I asked. As between you and
11:47:07 9 Mr. Cleveland, who was having interactions with Mr. Biden?

11:47:11 10 A. Mr. Cleveland.

11:47:12 11 Q. So you didn't see Mr. Biden in any state that you
11:47:16 12 could tell whether he was drunk or using anything that would
11:47:19 13 cause you any concern?

11:47:20 14 A. No.

11:47:20 15 Q. As between you and Mr. Cleveland, that would be
11:47:24 16 Mr. Cleveland then if that was the case?

11:47:25 17 A. If that was the case, yes.

11:47:28 18 Q. And the last question that I have for you, then, is
11:47:39 19 when -- do you know what --

11:47:40 20 MR. LOWELL: I don't have any other questions
11:47:43 21 for you.

11:47:44 22 THE COURT: All right. Thank you, sir. You are
11:47:46 23 excused. I hope you get some sleep.

11:47:48 24 THE WITNESS: Thank you, ma'am.

11:47:50 25 THE COURT: All right. Mr. Lowell, what's next?

Palimere - direct

11:47:53 1 MR. LOWELL: We would like the jury to hear from
11:47:56 2 Ron Palimere.

11:48:02 3 COURTROOM DEPUTY: Please raise your right hand.
11:48:06 4 Please state and spell your full name for the record.

11:50:02 5 THE WITNESS: Ronald Palimere, Jr. R-O-N-A-L-D,
11:50:25 6 P-A-L-I-M-E-R-E, Jr.

11:50:29 7 RONALD PALIMERE, JR., having been duly sworn was
11:50:34 8 examined and testified as follows:

11:50:36 9 DIRECT EXAMINATION

11:50:37 10 BY MR. LOWELL:

11:50:41 11 Q. Good morning, Mr. Palimere.

11:50:43 12 A. Good morning.

11:50:43 13 Q. My name is Abbe Lowell, we've never met?

11:50:46 14 A. No, sir.

11:50:46 15 Q. Never spoken?

11:50:47 16 A. No, sir.

11:50:48 17 Q. You have spoken to the prosecutors and investigators
11:50:50 18 in the case, right?

11:50:51 19 A. Yes, sir.

11:50:52 20 Q. And we have --

11:50:54 21 MR. WISE: Your Honor, I object to that
11:50:56 22 question, prosecutors and investigators, we've never met as
11:51:01 23 well.

11:51:01 24 MR. LOWELL: I'm sorry.

11:51:02 25 BY MR. LOWELL:

Palimere - direct

- 11:51:03 1 Q. You have met with members of the FBI?
- 11:51:07 2 A. Yes, sir.
- 11:51:07 3 Q. Even recently; correct?
- 11:51:08 4 A. Yes, sir.
- 11:51:09 5 Q. And you're here because we have subpoenaed you,
- 11:51:14 6 meaning, we, the lawyers that are representing Mr. Biden?
- 11:51:17 7 A. Yes, sir.
- 11:51:18 8 Q. What do you do for a living?
- 11:51:20 9 A. I own StarQuest Shooters and Survival Supply.
- 11:51:23 10 Q. For how long have you owned the store?
- 11:51:25 11 A. About 12 years.
- 11:51:27 12 Q. And before that, did you have any other stores like
- 11:51:30 13 that, any other survival or shooting stores or gun stores?
- 11:51:34 14 A. No, sir.
- 11:51:35 15 Q. You're still the owner?
- 11:51:37 16 A. Yes, sir.
- 11:51:37 17 Q. And as an owner, other than of course owning it, in
- 11:51:44 18 terms of day to day sales, what's your responsibility?
- 11:51:47 19 A. Just general operations, you know, the bookkeeping,
- 11:51:51 20 the sales, the ordering of products, that kind of stuff.
- 11:51:56 21 Q. Did you yourself ever make sales?
- 11:51:59 22 A. No, sir.
- 11:52:00 23 Q. You have salespeople for that?
- 11:52:01 24 A. Yes, sir.
- 11:52:02 25 Q. I want to call your attention to October of 2018, the

Palimere - direct

11:52:06 1 date about which this trial is. Okay. You were the owner
11:52:09 2 of the store?

11:52:10 3 A. Yes, sir.

11:52:10 4 Q. Were you in the store on that day?

11:52:14 5 A. At some point I was in the store, yes.

11:52:17 6 Q. Do you know what time or what part of the day you
11:52:20 7 were there?

11:52:20 8 A. I'm usually in and out of the store during the day.

11:52:24 9 Q. Did there come a time in the afternoon that you
11:52:27 10 recall who you now know to be Hunter Biden came in the
11:52:32 11 store?

11:52:32 12 A. Yes, sir.

11:52:32 13 Q. Where were you then?

11:52:34 14 A. I believe I was next door at -- I had owned another
11:52:39 15 business next door at the time and I was called over to the
11:52:42 16 shop.

11:52:43 17 Q. Who called you over to the shop?

11:52:45 18 A. I don't remember.

11:52:46 19 Q. At the time, was there a person named Gordon
11:52:49 20 Cleveland who worked in the shop?

11:52:50 21 A. Yes, sir.

11:52:51 22 Q. Was there a person named Jason Turner who worked in
11:52:54 23 the shop?

11:52:54 24 A. Yes, sir.

11:52:55 25 Q. Do you recall whether it was either one of those two

11:52:58 1 people?

11:52:58 2 A. I believe it was one of those people.

11:53:00 3 Q. But did you cannot remember which one?

11:53:03 4 A. I do not remember which one.

11:53:04 5 Q. Whoever it was called you to come over?

11:53:06 6 A. Correct.

11:53:07 7 Q. Was that because Mr. Biden was in the store?

11:53:09 8 A. Any time we have certain, we call them celebrities,

11:53:15 9 they usually will call me in.

11:53:16 10 Q. Did you at that point that they called you already

11:53:19 11 know that the celebrity was Hunter Biden?

11:53:22 12 A. No, sir, they just called me over and said we need

11:53:26 13 you next door.

11:53:27 14 Q. He didn't use the word celebrity, they called just

11:53:30 15 you over?

11:53:31 16 A. Yes.

11:53:31 17 Q. Did you come over?

11:53:32 18 A. Yes.

11:53:32 19 Q. When you came in, what did do you?

11:53:34 20 A. I have a desk in the back off the floor, I went and

11:53:37 21 sat at my desk.

11:53:38 22 Q. Did you go through the back to get to your office?

11:53:40 23 A. Yes, sir.

11:53:40 24 Q. You didn't come through the store?

11:53:42 25 A. No.

Palimere - direct

11:53:42 1 Q. Now as I understand it, you're sitting in the back
11:53:45 2 room?

11:53:46 3 A. Correct.

11:53:46 4 Q. And who is there with you?

11:53:48 5 A. Typically it would be my desk and then across from me
11:53:52 6 would be a desk where Jason would be sitting doing
11:53:56 7 background checks.

11:53:57 8 Q. By Jason, you mean Jason Turner?

11:54:00 9 A. Jason Turner, yes.

11:54:02 10 Q. When you came back from wherever you were back into
11:54:04 11 the store, Mr. Turner was in the office then?

11:54:07 12 A. Correct, yes.

11:54:08 13 Q. As far as you know, what was he doing?

11:54:10 14 A. Typically he would be doing background checks or
11:54:13 15 whatever clerical stuff he was doing off to the side.

11:54:16 16 Q. So you came back, you're in the office and he's in
11:54:19 17 the office, do you see Mr. Cleveland at that moment?

11:54:22 18 A. I don't believe he was in the back at the time, no.

11:54:25 19 Q. Did there come a time that you did see Mr. Cleveland?

11:54:28 20 A. Yes, at some point he came back, yes.

11:54:30 21 Q. So one thing I want to establish from the beginning,
11:54:33 22 from the moment you got back in the store, in the office,
11:54:36 23 Jason Turner was there?

11:54:38 24 A. I believe to the best of my recollection he was in
11:54:41 25 the back when I arrived.

Palimere - direct

11:54:42 1 Q. Okay. So when in the sequence then did you have any
11:54:45 2 interaction with Mr. Cleveland?

11:54:48 3 A. Gordon came back, there was discussion about the use
11:54:54 4 of a passport, he just asked if I was okay with him using a
11:54:58 5 passport for the sale.

11:55:00 6 Q. When Mr. Cleveland came in the back room, what was he
11:55:08 7 holding in his hand or bringing in?

11:55:09 8 A. I don't recall.

11:55:10 9 Q. Well, did he have a passport to show you?

11:55:15 10 A. I don't recall what he had in his hands at the time.

11:55:17 11 Q. Did he have a copy of a passport?

11:55:20 12 A. He should have, but I can't --

11:55:23 13 Q. You can't remember?

11:55:24 14 A. I can't remember.

11:55:25 15 Q. When he came in the back room with that, was he also
11:55:28 16 carrying a firearm?

11:55:30 17 A. His personal firearm?

11:55:31 18 Q. No, no, a sales firearm from the front, do you
11:55:34 19 remember him --

11:55:35 20 A. I don't believe he would have brought that back, no.

11:55:37 21 Q. So what you can recall, he was there, and he asked
11:55:40 22 you a question?

11:55:41 23 A. Correct.

11:55:42 24 Q. And the question was about the passport?

11:55:44 25 A. Correct.

Palimere - direct

11:55:45 1 Q. What did you understand, what was the question?

11:55:48 2 A. We typically, or at that point, I don't know that
11:55:51 3 we've ever had a passport used as a form of identification
11:55:55 4 and he just said is it okay if we use this.

11:55:58 5 Q. And does a passport have an address on it?

11:56:01 6 A. At that time, I believe it had an address and it was
11:56:06 7 a type of identification just like any other type of
11:56:10 8 identification.

11:56:12 9 Q. Mr. Radic, can you put up, please, government 10A.
11:56:20 10 You recognize this form, right?

11:56:21 11 A. Yes.

11:56:21 12 Q. It's a 4473 ATF form?

11:56:25 13 A. Yes.

11:56:25 14 Q. Would you flip through it, Mr. Radic, to the last
11:56:29 15 page. Before do you that, you see it says in 18(a) U.S.
11:56:34 16 passport, correct?

11:56:35 17 A. Yes.

11:56:35 18 Q. Mr. Radic, would you flip to the end, do you see
11:56:38 19 that?

11:56:38 20 A. Yes, sir.

11:56:39 21 Q. Do you recognize what that is?

11:56:40 22 A. That's a United States passport.

11:56:42 23 Q. Can you look at it carefully?

11:56:45 24 A. Yes.

11:56:46 25 Q. Do you see it?

Palimere - direct

- 11:56:47 1 A. Yes.
- 11:56:47 2 Q. Does it have an address on it?
- 11:56:49 3 A. No, sir.
- 11:56:50 4 Q. You see the handwriting on the left, do you see it?
- 11:56:52 5 A. Yes, sir.
- 11:56:53 6 Q. Do you recognize that, I mean whose it is, do you
- 11:56:56 7 recognize whose that is?
- 11:56:58 8 A. Would you want me to guess?
- 11:57:00 9 Q. No, if you can't recognize it, just tell me you can't
- 11:57:04 10 recognize it?
- 11:57:04 11 A. I can't say with any certainty whose it is.
- 11:57:07 12 Q. That's fine. You can take that down.
- 11:57:09 13 Go back to the first page, Mr. Radic, and then
- 11:57:15 14 go to the second page.
- 11:57:16 15 And you see on the form, the form of
- 11:57:18 16 identification that's used says U.S. passport, right?
- 11:57:22 17 A. Yes.
- 11:57:22 18 Q. But as we just established, it doesn't have a
- 11:57:25 19 residence on it, does it, the passport?
- 11:57:29 20 A. What you just showed me, no, I don't see an address
- 11:57:31 21 on it.
- 11:57:32 22 Q. So Mr. Cleveland comes in and he asks you, can you
- 11:57:35 23 take a passport?
- 11:57:36 24 A. Correct.
- 11:57:36 25 Q. What did you say?

11:57:38 1 A. I said yeah, sure, not thinking anything else about
11:57:43 2 it, yeah, sure, take a passport.

11:57:45 3 Q. Even though it didn't have a residence on it?

11:57:47 4 A. We didn't discuss that, not that I can recall.

11:57:50 5 Q. Why did you understand he was asking if you could
11:57:53 6 take a passport?

11:57:54 7 MR. WISE: Objection, he can't --

11:57:56 8 MR. LOWELL: I agree, bad question. What did he
11:57:59 9 say to you about the passport?

11:58:00 10 MR. WISE: And then that's hearsay.

11:58:01 11 THE COURT: That's hearsay.

11:58:03 12 BY MR. LOWELL:

11:58:03 13 Q. I'll withdraw that question.

11:58:04 14 What did you tell Mr. Cleveland when
11:58:07 15 Mr. Cleveland came in holding or asking anything?

11:58:10 16 A. Yeah, sure, take the passport.

11:58:13 17 Q. And after he did that, do you recall him having
11:58:18 18 anything in his hand, paper, passport, or just asked the
11:58:22 19 question?

11:58:22 20 A. I don't recall. The only thing I can remember is
11:58:25 21 this-- him asking hey, can we take this as a form of
11:58:30 22 identification.

11:58:30 23 Q. And you said sure?

11:58:31 24 A. Sure.

11:58:31 25 Q. Were you trying to have the sale go in a hurry?

Palimere - direct

11:58:36 1 A. Yeah, I was trying to --

11:58:42 2 Q. I just asked --

11:58:43 3 A. Yeah.

11:58:43 4 Q. Were you trying for it to happen in a hurry?

11:58:46 5 A. I was trying to not hold the sale up.

11:58:49 6 Q. How is that different than trying to get it done in a

11:58:52 7 hurry?

11:58:52 8 A. By not having him in the back for 20 minutes and

11:58:56 9 going through a bunch of discussion, just saying yep, take

11:58:59 10 it and proceed with running the background check.

11:59:02 11 Q. Are you familiar with the expression about

11:59:07 12 Mr. Cleveland called "whale hunter"?

11:59:09 13 A. Yes.

11:59:10 14 Q. You're smiling, so you do?

11:59:11 15 A. Yes.

11:59:12 16 Q. What is that?

11:59:13 17 A. He is very good at selling a lot of the more

11:59:18 18 expensive products that we have in the store.

11:59:22 19 Q. Okay. Meaning bringing in the whale?

11:59:26 20 A. You can draw however you want from a term whale

11:59:29 21 hunter, it's just --

11:59:31 22 Q. But that's what it means to you, being very

11:59:34 23 successful at bringing in and selling more expensive items?

11:59:38 24 A. He's very good at selling the expensive items that we

11:59:42 25 have for sale in the store.

Palimere - direct

- 11:59:43 1 Q. So Mr. Cleveland leaves and is Mr. Turner still in
11:59:46 2 the back room with you?
- 11:59:47 3 A. Yes.
- 11:59:47 4 Q. What do you recall happening next after you have told
11:59:50 5 Mr. Cleveland go ahead?
- 11:59:52 6 A. That's it. You know, I don't -- I didn't have
11:59:55 7 anymore interaction at that point.
- 11:59:57 8 Q. With whom?
- 11:59:58 9 A. Cleveland or Turner.
- 12:00:02 10 Q. Okay. You mean when you say interaction, Mr. Turner
12:00:05 11 is in there doing his background checks, right?
- 12:00:08 12 A. Correct.
- 12:00:08 13 Q. Did there come a time that you observed Mr. Turner
12:00:11 14 taking any form and running the background check that was
12:00:14 15 involved in this purchase?
- 12:00:15 16 A. No, I went about doing my work at my desk.
- 12:00:18 17 Q. Not paying attention to what he was doing?
- 12:00:20 18 A. No.
- 12:00:21 19 Q. After Mr. Cleveland went out the first time, did you
12:00:23 20 see Mr. Cleveland come back in with any form or that was it?
- 12:00:26 21 A. I don't recall anything else.
- 12:00:29 22 Q. Okay. So the one exchange is the thing you remember?
- 12:00:32 23 A. The exchange between me and, I believe it was Gordon,
12:00:37 24 about the passport, yes.
- 12:00:38 25 Q. Did you go outside from the point at which

Palimere - direct

12:00:41 1 **Mr. Cleveland came in the back room to the point at which**
12:00:43 2 **the sale was completed?**

12:00:45 3 A. Can you ask that again?

12:00:47 4 Q. Did you go to the showroom?

12:00:49 5 A. No.

12:00:49 6 Q. From the time that you -- Mr. Cleveland and you had
12:00:53 7 the conversation and then you went back -- he went back
12:00:56 8 outside?

12:00:56 9 A. No, sir, I stayed in my station.

12:00:58 10 Q. So you never went back in the storeroom?

12:01:01 11 A. No.

12:01:01 12 Q. The showroom?

12:01:02 13 A. I wasn't in the showroom at all.

12:01:04 14 Q. You just came to the back?

12:01:06 15 A. Correct.

12:01:06 16 Q. So you have no idea whether or not Mr. Cleveland
12:01:10 17 spoke to Mr. Biden at that point or not?

12:01:12 18 A. No.

12:01:12 19 Q. And you had no conversations after that exchange with
12:01:16 20 Mr. Turner?

12:01:17 21 A. No.

12:01:17 22 Q. Did you see him run a NICS check for any gun that
12:01:23 23 Mr. Biden sought, or did, bought that day?

12:01:25 24 A. Did I observe him running a NICS check?

12:01:28 25 Q. Yes.

Palimere - direct

- 12:01:28 1 A. No I did not.
- 12:01:29 2 Q. Do you know that he did?
- 12:01:30 3 A. Yes, I did.
- 12:01:31 4 Q. Can you place in time when the exchange you just said
- 12:01:35 5 happened that day of October 12th, 2018?
- 12:01:38 6 A. If you bring up the NICS check, I can tell you
- 12:01:42 7 exactly the time.
- 12:01:43 8 Q. Will you bring up the government Exhibit 12A. And
- 12:01:47 9 now looking at that, does that help tell you when it
- 12:01:51 10 happened?
- 12:01:51 11 A. So, yeah, October 12th, 2018, at 6:36 p.m. was
- 12:01:58 12 created and status date one minute later, 6:37 got a status
- 12:02:03 13 proceed.
- 12:02:04 14 Q. When you see that time of 6:37, does that help
- 12:02:08 15 acclimate or help the sequence of when the exchange with you
- 12:02:11 16 and Mr. Cleveland about the passport occurred?
- 12:02:14 17 A. That would tell me that prior to 6:36 when the
- 12:02:19 18 background check was created, Mr. Cleveland would have asked
- 12:02:22 19 me if he could take a passport, yeah.
- 12:02:24 20 Q. Do you know how many minutes or time before that,
- 12:02:27 21 that that happened?
- 12:02:28 22 A. No.
- 12:02:30 23 Q. For Mr. Turner to run a background check, what does
- 12:02:34 24 he have to have in his possession?
- 12:02:37 25 A. All of the necessary requirements to fill in the data

Palimere - direct

12:02:41 1 to fill in on the screen there, all these questions have to
12:02:45 2 be answered for him to run this background check.

12:02:47 3 Q. That would be the last name, middle name, age,
12:02:52 4 height, weight, whatever is there?

12:02:54 5 A. Correct.

12:02:54 6 Q. Whatever he needs?

12:02:56 7 A. Yes.

12:02:56 8 Q. He doesn't need the form itself, he just needs the
12:03:00 9 information that's reflected on that?

12:03:01 10 A. He's pulling the information from the form and typing
12:03:04 11 it in on the FBI NICS website to fill in the blanks to get
12:03:09 12 this answer.

12:03:09 13 Q. And the NICS form has the need for that information?

12:03:12 14 A. Correct.

12:03:13 15 Q. You can see from the bottom who is the one who then
12:03:15 16 ran it?

12:03:16 17 A. Submitted by Jason V. Turner, retrieved by
12:03:20 18 Jason V. Turner.

12:03:21 19 Q. So did you observe him running this?

12:03:24 20 A. No, I did not observe him running this.

12:03:26 21 Q. But this is the form that's generated if that's
12:03:29 22 happening?

12:03:30 23 A. That is the form, yes, that's printed out from the
12:03:33 24 actual NICS website.

12:03:35 25 Q. Before you said that somebody called you to come into

Palimere - direct

12:03:37 1 the store because there was -- I'm sorry, somebody called
12:03:42 2 you, and you came in the store through the back?

12:03:45 3 A. Correct.

12:03:45 4 Q. And I think you said they do that customarily when
12:03:49 5 there is a "celebrity"?

12:03:53 6 A. A celebrity, or some sale, something they need me to
12:03:58 7 be involved with.

12:03:58 8 Q. Is that what you needed to be involved with that day,
12:04:04 9 was the issue of the passport?

12:04:04 10 A. I don't recall. I don't recall why I was called
12:04:06 11 over.

12:04:07 12 Q. But whatever the reason was you never went out to the
12:04:11 13 showroom?

12:04:11 14 A. No.

12:04:12 15 Q. Did you therefore never see anything that Mr. Biden
12:04:17 16 did that day?

12:04:17 17 A. I didn't observe anything that he did that day, no.

12:04:20 18 Q. And one last time, when Mr. Cleveland came in, at the
12:04:25 19 point he asked you about the passport, are you clear that he
12:04:30 20 did not carry with him the gun he was selling to Mr. Biden?

12:04:35 21 MR WISE: I don't understand, objection, he's
12:04:37 22 already asked and answered this, one last time is to repeat
12:04:41 23 the same thing over and over again.

12:04:43 24 MR. LOWELL: Over and over, twice, I'm sorry I
12:04:45 25 thought because you did that, I could do that.

Palimere - direct

12:04:47 1 THE COURT: All right. We'll let him ask it one
12:04:50 2 last time.

12:04:50 3 BY MR. LOWELL:

12:04:51 4 Q. You never saw the gun that Mr. Biden purchased that
12:04:53 5 day being brought to the back room?

12:04:55 6 A. Yeah, I don't recall anything that Mr. Cleveland
12:04:58 7 brought back at the time.

12:04:59 8 Q. Would it be unusual for the person to bring the gun
12:05:02 9 back in the room, that backroom for the check to occur?

12:05:05 10 A. It could be, it could go either way, there isn't a --
12:05:10 11 there isn't a set rule that says the firearm being purchased
12:05:13 12 stays on the floor or comes to the back. It's up to the
12:05:16 13 discretion of the salesman, I guess if he wants to bring it
12:05:19 14 in the back.

12:05:20 15 Q. On that day you have no memory of which happened?

12:05:23 16 A. No.

12:05:23 17 MR. LOWELL: That's all I have, Judge.

12:05:25 18 THE COURT: Thank you.

12:05:25 19 Cross-exam?

12:05:26 20 MR. WISE: No thank you. I don't have any
12:05:29 21 questions.

12:05:29 22 THE COURT: Thank you, sir. Thanks for coming
12:05:31 23 in. You are excused.

12:05:32 24 All right. Mr. Lowell, what's next?

12:05:37 25 MR. LOWELL: Your Honor, based on our

N. Biden - direct

12:05:39 1 conversation with counsel -- can you approach?

12:06:59 2 (Side-bar discussion:)

12:06:59 3 MR. LOWELL: I thought our plan was because we
12:06:59 4 wanted the opportunity to consider Naomi and Jimmy Biden
12:06:59 5 that we were going to wait and do it at the break so we
12:06:59 6 could get ready, we told her that, I don't know if she's
12:06:59 7 available at this moment, I can find her just because I
12:06:59 8 thought we said we were going to do an early lunch.

12:06:59 9 MR. WISE: Our understanding is she's got an
12:06:59 10 scheduling issue, too, my preference we start with her, get
12:06:59 11 her done.

12:06:59 12 MR. LOWELL: I didn't mind, I just wanted to
12:07:12 13 start with her.

12:07:13 14 (End of side-bar.)

12:07:24 15 MR. LOWELL: Your Honor, we would like the jury
12:07:25 16 to hear from Naomi Biden.

12:07:30 17 COURTROOM DEPUTY: Please raise your right hand.
12:07:32 18 Please state and spell your full name for the record.

12:07:42 19 THE WITNESS: Naomi King Biden, N-A-O-M-I,
12:07:47 20 K-I-N-G, B-I-D-E-N.

12:07:51 21 NAOMI KING BIDEN, having been duly sworn was
12:07:56 22 examined and testified as follows:

12:07:58 23 DIRECT EXAMINATION

12:07:59 24 BY MR. LOWELL:

12:08:01 25 Q. Good afternoon, Naomi.

N. Biden - direct

- 12:08:03 1 A. Hi.
- 12:08:03 2 Q. Can you tell the jury a little bit about yourself,
12:08:07 3 where you live?
- 12:08:07 4 A. I live in D.C., in Georgetown.
- 12:08:11 5 Q. And what do you do for a living?
- 12:08:13 6 A. I'm an attorney, at a law firm in D.C.
- 12:08:16 7 Q. And where did you go to college?
- 12:08:20 8 A. I went to UPenn.
- 12:08:22 9 Q. University of Pennsylvania?
- 12:08:24 10 A. Uh-huh.
- 12:08:25 11 Q. And you went to law school?
- 12:08:26 12 A. Yes.
- 12:08:26 13 Q. Where did you go to law school?
- 12:08:28 14 A. Columbia.
- 12:08:30 15 Q. That's in New York?
- 12:08:31 16 A. Yes.
- 12:08:32 17 Q. You are the daughter of Hunter Biden?
- 12:08:36 18 A. Yes.
- 12:08:37 19 Q. And your mom is?
- 12:08:38 20 A. Kathleen Buhle.
- 12:08:40 21 Q. Do you have any siblings?
- 12:08:42 22 A. Two sisters.
- 12:08:44 23 Q. And their names?
- 12:08:45 24 A. And a brother, who I love.
- 12:08:47 25 Q. And their names are?

N. Biden - direct

12:08:48 1 A. Finnegan, Maisy, and Beau.

12:08:53 2 Q. When your mom and dad got divorced, how old were you?

12:08:59 3 A. I was --

12:09:02 4 Q. Already an adult?

12:09:04 5 A. An adult, 23 maybe.

12:09:06 6 Q. You were in college or after. Before that you and

12:09:09 7 your sisters, you lived together?

12:09:12 8 A. Yes.

12:09:12 9 Q. I want to call your attention to the year of 2018,

12:09:17 10 and particularly in the summer, meaning August and in

12:09:25 11 September of 2018. Can I call your attention to that?

12:09:27 12 A. Yes.

12:09:27 13 Q. Did there come a time in that period of August and

12:09:31 14 September that you understood that your dad was living in

12:09:34 15 Los Angeles?

12:09:35 16 A. Yes.

12:09:35 17 Q. And when that happened, did there come a time that

12:09:38 18 you visited him there?

12:09:39 19 A. Yes, I visited him with my boyfriend, now my husband.

12:09:44 20 Q. What's his name?

12:09:45 21 A. Peter.

12:09:46 22 Q. So how did it turn about that you and Peter went to

12:09:50 23 Los Angeles?

12:09:51 24 A. I hadn't seen my dad in a really long time and I knew

12:09:56 25 he was in rehab facility there and he reached out and he

N. Biden - direct

12:10:00 1 said that he would organize the trip if we came to visit
12:10:05 2 him.

12:10:05 3 Q. So you and Peter both flew out and he made the
12:10:05 4 arrangements?

12:10:10 5 A. We drove actually, but yes.

12:10:12 6 Q. You drove across?

12:10:13 7 A. We drove from Wyoming.

12:10:15 8 Q. Where were you at the time, you were in Wyoming?

12:10:17 9 A. In Wyoming, at Peter's parents house.

12:10:21 10 Q. You went from Wyoming and you drove to LA?

12:10:25 11 A. Yes.

12:10:25 12 Q. Do you remember whether that was towards the end of
12:10:27 13 August?

12:10:28 14 A. Yes.

12:10:28 15 Q. And when you got to LA, did you see your dad?

12:10:31 16 A. Yeah, we did.

12:10:33 17 Q. How so, where was he, and where were you?

12:10:36 18 A. We met him at a coffee shop, and we had lunch with
12:10:43 19 him, and we met his sober coach.

12:10:47 20 Q. Okay. So back to that period of time where he asked
12:10:51 21 you to come, you said you knew that he was in a period of
12:10:54 22 rehab, right?

12:10:56 23 A. Yeah.

12:10:56 24 Q. And do you remember the name of that rehab place?

12:10:59 25 A. Um --

N. Biden - direct

- 12:11:02 1 Q. Do you think it was called The View?
- 12:11:04 2 A. Yeah, it was, sorry.
- 12:11:06 3 Q. It's okay.
- 12:11:07 4 A. I'm nervous.
- 12:11:08 5 Q. Don't be nervous, can I get you water?
- 12:11:11 6 A. No, I'm good.
- 12:11:12 7 Q. When you got there to see your dad, he was in a rehab
- 12:11:16 8 place, when you actually got to see him, was he already in
- 12:11:19 9 the residence, or did you know whether he now left, was he
- 12:11:23 10 still there in residence?
- 12:11:24 11 A. Yes.
- 12:11:24 12 Q. You said something about a sober coach, what's that?
- 12:11:27 13 A. Like a sponsor, I guess.
- 12:11:29 14 Q. So you, the sober coach, Peter, and your dad went to
- 12:11:33 15 lunch?
- 12:11:34 16 A. Yes.
- 12:11:34 17 Q. How did your dad seem?
- 12:11:36 18 A. He seemed like the clearest that I had seen him since
- 12:11:39 19 my uncle died, and he just seemed really great.
- 12:11:43 20 Q. And you spent some time with him then?
- 12:11:45 21 A. Yeah.
- 12:11:46 22 Q. And then after you and your dad and Peter had lunch,
- 12:11:49 23 where did you and Peter go?
- 12:11:51 24 A. We went to Santa Barbara.
- 12:11:54 25 Q. Did you drive there?

N. Biden - direct

12:11:55 1 A. Yeah.

12:11:56 2 Q. And after you saw your dad on that date, did there

12:12:00 3 come a time that you communicated with him?

12:12:05 4 A. Yes.

12:12:06 5 Q. How did you communicate, by phone or text or both?

12:12:09 6 A. Text.

12:12:09 7 Q. Do you recall what you told your dad after seeing

12:12:12 8 him?

12:12:12 9 A. Yeah, I told him that I was so proud of him and I was

12:12:16 10 so proud to introduce Peter to him.

12:12:18 11 Q. So then you and Peter went to Santa Barbara, and he,

12:12:22 12 as far as you knew, went back to The View?

12:12:25 13 A. Yes.

12:12:27 14 Q. I would like to take you forward from that date to a

12:12:31 15 time in October. In October, were you yet in law school --

12:12:40 16 of 2018?

12:12:41 17 A. Yes, so I was in my second year.

12:12:43 18 Q. And so calling your attention to the end of the month

12:12:45 19 of October of 2018, were you going to, or already in New

12:12:53 20 York by the end of the month?

12:12:55 21 A. I was going to New York.

12:12:57 22 Q. Where were you going from?

12:12:58 23 A. From D.C.

12:13:01 24 Q. And how did you get from D.C. to New York?

12:13:04 25 A. We borrowed my dad's truck because we had to -- Peter

N. Biden - direct

12:13:10 1 was moving in with me in New York, so we had to move his
12:13:13 2 furniture from D.C. where he was living to New York and the
12:13:17 3 truck was big.

12:13:18 4 Q. And the truck at that point and where you wanted to
12:13:22 5 use it, was located in D.C.?

12:13:23 6 A. Yes.

12:13:24 7 Q. Did your sisters use the truck as well?

12:13:27 8 A. Yes, from time to time.

12:13:28 9 Q. So you picked up the truck in D.C. but your dad
12:13:31 10 wasn't there when you picked it up, right?

12:13:33 11 A. No.

12:13:33 12 Q. So you and Peter got the car, the truck loaded and
12:13:37 13 you drove it where?

12:13:38 14 A. To New York.

12:13:40 15 Q. When you got to New York, what did you do?

12:13:45 16 A. We unloaded the truck.

12:13:48 17 Q. At your apartment?

12:13:49 18 A. Yes.

12:13:50 19 Q. And so did there come a time when you, Peter, and the
12:13:54 20 truck in New York got to see your dad?

12:13:57 21 A. Yes.

12:13:57 22 Q. How did that come about?

12:13:58 23 A. He was coming to New York to see me and because he
12:14:03 24 needed the truck back.

12:14:04 25 Q. And so how did he get to New York, do you know?

N. Biden - direct

- 12:14:07 1 A. He drove my pop's Cadillac.
- 12:14:10 2 Q. When you say pops, that means your grandfather?
- 12:14:14 3 A. Yes.
- 12:14:14 4 Q. Hunter's dad, Joe Biden?
- 12:14:17 5 A. Yes.
- 12:14:17 6 Q. When he drove it up, do you recall about what day it
- 12:14:20 7 was in October, was that October 15th?
- 12:14:22 8 A. Yeah.
- 12:14:23 9 Q. And you were already -- where were you, were you
- 12:14:26 10 moved into your apartment?
- 12:14:27 11 A. Yeah.
- 12:14:27 12 Q. When your dad drove up in pop's car, did you get to
- 12:14:31 13 see him?
- 12:14:32 14 A. Yeah.
- 12:14:33 15 Q. Did you and Peter have any occasions to interact with
- 12:14:36 16 him?
- 12:14:37 17 A. Yes.
- 12:14:37 18 Q. How did he seem at that point at the end of October?
- 12:14:40 19 A. He seemed great, he seemed hopeful.
- 12:14:43 20 Q. Did he seem in comparison to the way you saw him when
- 12:14:47 21 he was at The View?
- 12:14:48 22 A. Yes.
- 12:14:48 23 Q. And you had occasion to see him that day, or that
- 12:14:51 24 period?
- 12:14:52 25 A. Yes.

N. Biden - direct

12:14:52 1 Q. Did there come a time that -- and Peter did something
12:14:57 2 to, with the truck, or pop's car?

12:15:00 3 A. Yes, they switched the cars, we had my pop's car, and
12:15:05 4 my dad took the truck back.

12:15:07 5 Q. Do you know -- that was a couple of days later?

12:15:10 6 A. Yes.

12:15:10 7 Q. So Peter and you kept the black Cadillac, right?

12:15:14 8 A. Yes.

12:15:15 9 Q. And then your dad took the truck back?

12:15:18 10 A. Witness nodding yes.

12:15:21 11 Q. When you took the truck from Washington D.C. to New
12:15:25 12 York, what was the condition of the inside of the truck?

12:15:27 13 A. It was in good condition.

12:15:28 14 Q. By that I mean was there any laundry thrown around,
12:15:32 15 any things that you could determine were left in the truck
12:15:36 16 by your dad?

12:15:37 17 A. No.

12:15:39 18 Q. I want to talk about the Raptor truck a minute.
12:15:47 19 Would you put up DX -- can you look at Exhibit 12 in your
12:15:56 20 book. So the condition of the truck is where we were at. I
12:16:29 21 asked you what was inside and you said there was nothing
12:16:32 22 particular left behind.

12:16:34 23 Q. When you gave the truck to your dad in New York,
12:16:38 24 did you see strewn about, any, what we'll call drug
12:16:43 25 paraphernalia?

N. Biden - direct

12:16:43 1

A. No.

12:16:44 2

Q. Did you see any white powder residue or anything like that?

12:16:48 3

12:16:48 4

A. No.

12:16:49 5

Q. And we're clear that's at the end of October, or at least 18th, 19th?

12:16:53 6

12:16:54 7

A. Yes.

12:16:55 8

Q. That would be before October 13th, right -- I'm sorry, that would be after October 13th?

12:16:58 9

12:17:00 10

A. Yes.

12:17:00 11

Q. And after October 14th?

12:17:02 12

A. Yes.

12:17:02 13

Q. So if there is an exchange between your dad and Hallie Biden on the 13th and the 14th, this is all afterwards?

12:17:10 15

12:17:11 16

A. Yes.

12:17:11 17

MR. WISE: Objection. Exchange between Hallie

12:17:14 18

Biden.

12:17:14 19

MR. LOWELL: If there is a text between the two

12:17:16 20

or any communications -- I'm sorry, judge, I'll withdraw, if there is any communication between your dad and Hallie Biden that would be on those days, 13th, 14th, you saw him after.

12:17:21 21

12:17:25 22

12:17:29 23

MR. WISE: Objection, he hasn't established a

12:17:31 24

foundation she knows --

12:17:32 25

THE COURT: I mean, everybody knows dates

N. Biden - direct

12:17:34 1 Mr. Lowell so I don't think you need to --

12:17:36 2 MR. LOWELL: Thank you.

12:17:37 3 BY MR. LOWELL:

12:17:38 4 Q. So now, your dad has the truck, when you gave your
12:17:43 5 dad the truck, I want you to describe the inside of it.

12:17:46 6 Does the truck have a console?

12:17:48 7 A. Yes.

12:17:49 8 Q. And underneath the console, what's there?

12:17:52 9 A. It's like a safe.

12:17:54 10 Q. And meaning it's a steel or metal object?

12:17:59 11 A. Yeah.

12:17:59 12 Q. Does it have a lock or does it not have a lock?

12:18:01 13 A. It has a lock.

12:18:03 14 Q. And when you and Peter had it at the period of time
12:18:07 15 in October, was the safe working?

12:18:09 16 A. Yes.

12:18:10 17 Q. Was it broken?

12:18:11 18 A. No.

12:18:13 19 Q. Was the combination lock working?

12:18:16 20 A. We couldn't open it, so yeah.

12:18:18 21 Q. How do you know all the things that I just asked you
12:18:21 22 about?

12:18:21 23 A. Because we tried to open it.

12:18:23 24 Q. And?

12:18:25 25 A. And we were not successful.

12:18:27 1 Q. And so after your dad picked up the truck that was
12:18:31 2 the condition you understood it was in still, it still had
12:18:34 3 the lock, I mean the safe, et cetera?

12:18:36 4 A. Yes.

12:18:36 5 Q. When you had the truck in New York and your father
12:18:41 6 left, and you're describing what was under the console, was
12:18:47 7 there any leather pouch lying around the car?

12:18:53 8 A. No.

12:18:53 9 Q. And that's where you left it?

12:18:56 10 A. Yes.

12:18:56 11 Q. And then you left to go with Peter or you stayed in
12:19:00 12 New York?

12:19:00 13 A. I stayed in New York, yes.

12:19:02 14 MR. LOWELL: Thank you, Ms. Biden.

12:19:03 15 THE COURT: Thank you.

12:19:05 16 Cross-exam.

12:19:05 17 MR. WISE: Thank you, Your Honor.

12:19:06 18 CROSS-EXAMINATION

12:19:09 19 BY MR. WISE:

12:19:18 20 Q. Good afternoon, Ms. Biden.

12:19:20 21 A. Hi.

12:19:20 22 Q. My name Leo Wise, I represent the United States.
12:19:23 23 We've never met before, right?

12:19:25 24 A. No.

12:19:26 25 Q. So I'll try to perhaps go in the order that

12:19:33 1 Mr. Lowell did. When you visited your dad in California,
12:19:36 2 you said it was for lunch?

12:19:38 3 A. Yes.

12:19:39 4 Q. Was that an hour or two?

12:19:42 5 A. We went to lunch and then we went shopping.

12:19:46 6 Q. Okay. So all told, sort of an afternoon?

12:19:49 7 A. Yeah, an afternoon.

12:19:50 8 Q. I think you said you hadn't seen him for a really
12:19:54 9 long time before that?

12:19:55 10 A. Perhaps, yeah, at least a few months because Peter
12:19:59 11 hadn't met him.

12:20:02 12 Q. Were you aware before that your father reached out to
12:20:06 13 you about visiting him in rehab that he had been using
12:20:10 14 drugs?

12:20:11 15 A. Yes, I knew that he was struggling with addiction.

12:20:16 16 Q. Had he ever used drugs in front of you?

12:20:19 17 A. No.

12:20:19 18 Q. So you knew when he was struggling -- you knew he was
12:20:24 19 struggling with addiction but he didn't use drugs in front
12:20:27 20 of you?

12:20:28 21 A. No, I mean, I knew when he was struggling, I didn't
12:20:32 22 see him, we didn't communicate.

12:20:34 23 Q. Before he went to California -- when did you first
12:20:41 24 become aware that he was struggling with addiction?

12:20:45 25 A. I can't recall, but after my uncle died things got

12:20:51 1 bad.

12:20:51 2 Q. And so that was in 2015; right?

12:20:56 3 A. Yeah.

12:20:57 4 Q. And then you saw him again in 2018, right, in August?

12:21:03 5 A. Yes. I mean, I saw him in between 2015 and 2018.

12:21:08 6 Q. In that period of time from 2015 I guess, to whenever
12:21:11 7 you hadn't seen him leading up to the visit in 2018, you
12:21:17 8 understood he was struggling with addiction in that period
12:21:18 9 of time?

12:21:19 10 A. Yes.

12:21:19 11 Q. So in that period of time when you were seeing him
12:21:22 12 and you knew he was struggling with addiction, he still
12:21:25 13 wasn't using in front of you, right?

12:21:28 14 A. Yeah -- yeah, I mean we didn't see him for whenever
12:21:33 15 he was using, no.

12:21:36 16 Q. You never saw -- you say you never saw him when he
12:21:40 17 was using. Would you know if he was using or not?

12:21:43 18 A. No, but I don't remember -- I don't recall any
12:21:47 19 prolonged periods of time, hours, that we spent with him.

12:21:52 20 Q. What -- what do you mean by that?

12:21:55 21 A. Just that we would see him for like an hour, maybe,
12:22:00 22 at a time, during that period, but no, I never saw him use.

12:22:05 23 Q. So did you ever observe what it looked like when he
12:22:16 24 was using?

12:22:18 25 A. I -- I don't -- I don't know.

N. Biden - cross

12:22:23 1 Q. So if he was using, is it fair to say you don't know
12:22:28 2 what that looks like?

12:22:31 3 A. I guess. I guess not.

12:22:37 4 Q. So I want to -- I want to talk about -- ask you some
12:22:43 5 questions to follow-up on Mr. Lowell about when he came up
12:22:45 6 to New York, okay? Do you remember being asked about that?

12:22:50 7 A. Yes.

12:22:50 8 Q. So we're talking about the week, I wasn't sure on the
12:23:00 9 dates, we're talking about the week of October the 15th,
12:23:03 10 does that sound about right?

12:23:04 11 A. Yes.

12:23:05 12 Q. Just to put a kind of bookend on it, do you remember
12:23:11 13 when he actually got the truck back, do you remember the day
12:23:15 14 when he got the truck back in that week?

12:23:19 15 A. Right before he left.

12:23:21 16 Q. Do you remember what day he left on?

12:23:24 17 A. No.

12:23:27 18 Q. All right. Do you remember texting him or did you
12:23:30 19 text him when he was up in New York when you were trying to
12:23:34 20 arrange to see him?

12:23:38 21 A. Yes. I mean, yeah, it refreshed my memory.

12:23:43 22 Q. You have refreshed your memory. Did you look at some
12:23:45 23 of those text messages?

12:23:47 24 A. Yes.

12:23:47 25 Q. Before testifying?

12:23:51 1 A. The texts, yes.

12:23:58 2 Q. Now, it was difficult to actually get to see him;
12:24:02 3 right?

12:24:03 4 A. I don't recall.

12:24:05 5 Q. Would it refresh your memory to show you some of the
12:24:10 6 text messages from that time?

12:24:11 7 A. Sure.

12:24:12 8 MR. WISE: Your Honor, I have government
12:24:14 9 Exhibit 120, which are text messages. I can provide a copy
12:24:20 10 to defense counsel.

12:24:23 11 MR. LOWELL: We haven't seen these.

12:24:26 12 MR. WISE: We didn't know she was testifying.

12:24:29 13 MR. LOWELL: I haven't seen them.

12:24:30 14 THE COURT: It's cross.

12:24:31 15 MR. LOWELL: I understand that, but in terms of
12:24:33 16 source, authenticity, things that we discussed when it was
12:24:36 17 my presenting, I haven't seen them before. I would like to
12:24:39 18 have a moment, if I may.

12:24:41 19 THE COURT: You can have a moment.

12:24:42 20 MR. WISE: If I can approach, I'll give
12:24:45 21 Ms. Biden a copy.

12:24:47 22 MR. LOWELL: Can you tell me, this is like
12:24:50 23 twenty pages in it?

12:24:51 24 MR. WISE: Yes.

12:24:52 25 MR. LOWELL: Are you using all twenty pages?

12:24:54 1 MR. WISE: It depends if her memory needs to be
12:24:58 2 refreshed for them or not.

12:25:01 3 MR. LOWELL: It's for refreshing purposes for
12:25:04 4 right now.

12:25:05 5 MR. WISE: We'll start there.

12:25:06 6 THE COURT: May I have a copy?

12:25:08 7 MR. WISE: Yes, Your Honor, I think and we have
12:25:10 8 it electronically.

12:25:19 9 BY MR. WISE:

12:25:46 10 Q. So the first one, the first text I want to ask you
12:25:50 11 about if you recall, and we'll start it that way, Ms. Biden,
12:25:53 12 is actually I think one of the messages you may have
12:25:55 13 reviewed in preparation for your testimony, just a point of
12:26:00 14 reference, I think the first one I'm going to ask you about
12:26:03 15 is in defense 16C, I'm not sure if they gave you a binder.
12:26:09 16 Is a defense binder up there? Just to be clear, what I'm
12:26:13 17 asking you about, the first one is from that binder, there
12:26:18 18 is a message -- well, you remember your father on December
12:26:30 19 the 17th asking you where, or I guess it's you, you asking
12:26:36 20 your father "when are you getting the car?"

12:26:39 21 MR. LOWELL: That's a misstatement, it's
12:26:42 22 October.

12:26:43 23 MR. WISE: I'm sorry. October.

12:26:45 24 BY MR. WISE:

12:26:45 25 Q. Do you remember on the 17th you asking your father

12:26:48 1 when he was getting the car? Do you remember that?

12:26:53 2 A. Yes.

12:26:53 3 Q. So was he in New York by the 17th?

12:26:59 4 A. I assume so because he asked when I'm getting the
12:27:04 5 car.

12:27:04 6 Q. The first text, do you remember texting him asking
12:27:08 7 when he was coming to get it?

12:27:10 8 A. I mean, I don't recall sending the text. But looking
12:27:15 9 at them, I know that I sent them.

12:27:18 10 Q. Well, does it -- first of all, seeing the text does
12:27:23 11 that refresh your memory about whether you sent it or not?

12:27:27 12 A. Yeah, I mean this is my number, it was like five
12:27:30 13 years ago, I don't remember every text I sent.

12:27:32 14 Q. If you don't remember, that's fine just to say you
12:27:35 15 don't remember. But if you do, that's equally fine.

12:27:40 16 A. I remember.

12:27:43 17 Q. And is that because you hadn't seen him yet?

12:27:46 18 A. No, it was because he needed the car back, if I
12:27:51 19 recall.

12:27:51 20 Q. Do you remember how many times you saw him in New
12:27:55 21 York?

12:27:55 22 A. No.

12:27:55 23 Q. Was it once?

12:27:59 24 A. Probably, if he was only there for three days.

12:28:01 25 Q. So in that three days, you think you saw him one

12:28:05 1 time?

12:28:06 2 A. Probably.

12:28:07 3 Q. So the time on that message, do you remember sending
12:28:13 4 that text at like 2:45 in the afternoon?

12:28:22 5 A. I see the text.

12:28:24 6 Q. Well, is the time on that text 2:45?

12:28:29 7 A. Yes.

12:28:30 8 Q. All right. And then do you remember getting a
12:28:35 9 response from your father much later that day around almost
12:28:41 10 midnight?

12:28:44 11 A. Yeah. I mean, I see the text.

12:28:47 12 Q. Would you remember -- do you remember you texted him
12:28:49 13 in the afternoon on the 17th and then he didn't respond
12:28:52 14 until almost midnight?

12:28:54 15 A. No, I don't remember it.

12:28:56 16 Q. All right. If you now look at then government
12:29:00 17 Exhibit 120, on the second page of the exhibit, which is
12:29:09 18 1717, do you see the text from your father that reads, "are
12:29:15 19 you up?" At 11:40 p.m.?

12:29:18 20 A. Yes.

12:29:19 21 Q. And then again, he says, "please call me.", right?

12:29:24 22 A. Yeah.

12:29:24 23 Q. So at this point, he didn't have the truck back on
12:29:27 24 the 17th and if I understand, he's responding to you trying
12:29:31 25 to set that up; is that right?

N. Biden - cross

12:29:33 1 A. Yeah, that's what it looks like.

12:29:36 2 Q. And then did you respond to him much later, sort of
12:29:43 3 in the middle of the night?

12:29:46 4 A. Yeah.

12:29:47 5 Q. And did he actually ask you then at 2 o'clock in the
12:29:51 6 morning "where are the keys to the truck?" And "can Peter
12:29:54 7 bring to 57th and 5th, and I'll trade cars with him?"

12:29:58 8 A. Yes.

12:29:59 9 Q. So your father is asking if you can exchange the car
12:30:03 10 at 2 o'clock in the morning on the 18th now at 57th and 5th?

12:30:12 11 A. Yes. Well, I don't drive.

12:30:23 12 Q. But --

12:30:24 13 A. That's why he's saying will Peter bring it.

12:30:27 14 Q. But it's 2 o'clock in the morning when he's asking
12:30:29 15 you to do this, right?

12:30:30 16 A. That's what the time stamp says, but I don't recall
12:30:33 17 it being that late.

12:30:36 18 Q. All right. But that is -- do you recall even the
12:30:38 19 text exchange?

12:30:40 20 A. I recall trying to coordinate with him about
12:30:45 21 exchanging the cars.

12:30:47 22 Q. And you said you don't recall it being that late, but
12:30:50 23 if you look at the text, did you send him a text immediately
12:30:53 24 before that saying you had fallen asleep and that's why you
12:30:58 25 had missed his earlier text closer to midnight?

12:31:01 1 A. Yeah.

12:31:03 2 Q. All right. Do you know what your father was doing at
12:31:05 3 2 o'clock in the morning and why he was asking you for the
12:31:08 4 car then?

12:31:09 5 A. No.

12:31:16 6 Q. And then --

12:31:22 7 MR. LOWELL: Hold on a second.

12:31:25 8 THE WITNESS: Thank you.

12:31:28 9 BY MR. WISE:

12:31:44 10 Q. And were you surprised that he was reaching out to
12:31:46 11 you in the middle of the night to get the car?

12:31:49 12 A. To be honest, I don't remember any of this except
12:31:52 13 that I remember that I exchanged -- we exchanged the car
12:31:56 14 with my dad and he still seemed good and I was hopeful, the
12:32:07 15 specifics of all these --

12:32:09 16 Q. The next text, after asking Peter to bring to 57th
12:32:14 17 and 5th, and I'll trade cars with him at 2:21, you asked him
12:32:18 18 "right now?" With a question mark, right?

12:32:22 19 A. Yes.

12:32:22 20 Q. And then you said "keys are with us at my apartment."
12:32:26 21 Because he had asked you where the keys were, right?

12:32:29 22 A. Uh-huh.

12:32:30 23 Q. And then it looks like he didn't respond again;
12:32:35 24 right?

12:32:40 25 A. Yeah.

12:32:41 1 Q. All right. So did you try -- well, it is sort of the
12:32:47 2 next day, but did you try then in the daytime on the 18th,
12:32:51 3 just like you had done on the 17th to try to set up when
12:32:55 4 you're going to get him this car back?

12:33:01 5 A. Yeah.

12:33:03 6 Q. And so did you text him -- did you send him a text
12:33:07 7 sort of in the afternoon on the 18th trying to do that?

12:33:11 8 A. Yes.

12:33:13 9 Q. And again, were you unsuccessful in trying to set up
12:33:24 10 a meeting with your father to get him the car back? Now on
12:33:39 11 the 18th?

12:33:42 12 A. I think they did exchange the car.

12:33:46 13 Q. Well, if we go to the next page, did you send your
12:33:52 14 father a series of texts where you told him that you were in
12:33:59 15 Brooklyn, but that you could have Peter meet him and trade,
12:34:05 16 then did you ask your father if he had seen Peter and did he
12:34:10 17 ask if -- and did you ask if you would get to see him, in
12:34:14 18 other words, your dad?

12:34:15 19 A. Yes.

12:34:16 20 Q. And was your dad's response no? This is on
12:34:34 21 page 1719?

12:34:35 22 A. I think he's saying no to did he call.

12:34:37 23 Q. Your next message then is "so no see you?!"

12:34:46 24 A. Yeah.

12:34:47 25 Q. And then you said, it looks like you did sort of an

12:34:51 1 unhappy face, and the next text?

12:34:56 2 A. Are you asking?

12:34:57 3 Q. Yes.

12:34:58 4 A. Yes.

12:34:58 5 Q. And then the next one is "I'm really sorry, dad, I
12:35:02 6 can't take this." And then "I don't know what to say, I
12:35:06 7 just miss you so much, I just want to hang out with you."
12:35:11 8 Right?

12:35:11 9 A. Yeah.

12:35:12 10 Q. And then it looks like -- by this point it's about
12:35:15 11 10 o'clock in the night on the 18th; right? And then your
12:35:22 12 father says "I'm sorry, I have been so unreachable, it's not
12:35:30 13 fair to you." And that's at 10:30 now on the 18th; right?

12:35:36 14 A. Uh-huh.

12:35:38 15 Q. Do you know why he had been so unreachable?

12:35:51 16 A. No.

12:35:52 17 Q. Do you know what he had been doing on the 17th and
12:35:55 18 the 18th when you were trying to set up giving the car back
12:35:58 19 to him?

12:35:59 20 A. I don't remember.

12:36:01 21 Q. Did he tell you he was meeting with someone named
12:36:08 22 Franky?

12:36:08 23 A. I don't remember.

12:36:10 24 Q. Did he tell you that he had Franky come to his hotel
12:36:14 25 room?

N. Biden - cross

12:36:15 1 A. No. I don't remember.

12:36:18 2 Q. I'm sorry, I didn't hear you?

12:36:20 3 A. I don't remember.

12:36:21 4 Q. Did he tell you he had given someone named Franky an
12:36:26 5 access code to his Wells Fargo account?

12:36:30 6 A. No.

12:36:39 7 Q. And then I guess, it's now 10:40, 10:30, 10:45 on the
12:36:47 8 18th. Was it finally then on the 19th that you were able to
12:36:51 9 arrange to meet your dad to get him the car?

12:37:03 10 A. Yes.

12:37:03 11 Q. And I think Mr. Lowell asked you this, and I want to
12:37:08 12 pick up there. So -- or I don't know that he did ask you.
12:37:12 13 When did you actually get the truck? If the 19th is when
12:37:17 14 you gave it back to your father, when did you get it?

12:37:21 15 A. Whenever we picked -- got Peter's stuff from his
12:37:27 16 house in D.C.

12:37:28 17 Q. Do you remember how many days -- do you remember how
12:37:31 18 many days you had the truck?

12:37:33 19 A. No.

12:37:34 20 Q. All right. So you got it at some point, drove it up
12:37:40 21 to New York, and then gave it back to your father on the
12:37:43 22 19th; right?

12:37:45 23 A. I guess, yes.

12:37:47 24 Q. Okay. I think Mr. Lowell asked you this, but you
12:37:51 25 said when you got it, the condition it was in was, it was in

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12:37:55 1 good condition, I think that's the phrase. So when you got
12:38:04 2 it, did you see what I am going to refer to as drug remnants
12:38:10 3 in the interior of the car?

12:38:12 4 A. No.

12:38:13 5 Q. Did you see drug paraphernalia in the interior of the
12:38:17 6 car?

12:38:17 7 A. No.

12:38:17 8 Q. And this may seem like a strange question, but in the
12:38:24 9 period of time that you had it, did you put any drug
12:38:28 10 paraphernalia in the car?

12:38:29 11 A. No.

12:38:32 12 Q. Did you put any, it's going to seem like an even
12:38:37 13 weirder question, but did you ever use drugs?

12:38:41 14 A. No.

12:38:41 15 Q. So you wouldn't have done anything that left any drug
12:38:47 16 remnants in the truck, is that fair to say?

12:38:49 17 A. Yes.

12:38:51 18 Q. And when you gave it back to your father on the 19th,
12:38:59 19 there was no drug paraphernalia in it, right?

12:39:02 20 A. No.

12:39:03 21 Q. And there were no drug remnants in it, right? Is
12:39:09 22 that right?

12:39:09 23 A. Yes, that's right.

12:39:11 24 Q. So if drug paraphernalia was later found in the car,
12:39:14 25 that would had to have been put there after you gave it back

12:39:18 1 to your father on the 19th; right?

12:39:23 2 MR. LOWELL: And the assumption is she doesn't
12:39:26 3 know, it's the same thing they objected when I did that,
12:39:29 4 judge.

12:39:30 5 THE COURT: Yes.

12:39:33 6 BY MR. WISE:

12:39:33 7 Q. Just to be clear, no drug paraphernalia in the car
12:39:37 8 when you had it on the 19th, right?

12:39:39 9 A. No.

12:39:39 10 Q. And no drug remnants on the car when you had it on
12:39:42 11 the 19th, right?

12:39:44 12 A. No.

12:39:45 13 Q. And that's when you gave it back to your father and
12:39:47 14 he left with it, right?

12:39:49 15 A. Yes.

12:39:59 16 MR. WISE: Nothing further, Your Honor. Thank
12:40:01 17 you.

12:40:07 18 REDIRECT EXAMINATION

12:40:09 19 BY MR. LOWELL:

12:40:11 20 Q. Naomi, almost done.

12:40:12 21 In the text that Mr. Wise showed you about what
12:40:15 22 time of night, you didn't understand, or did you when he's
12:40:19 23 in the middle of the night asking you whether he was asking
12:40:22 24 you to drive in the middle of the night to exchange the car
12:40:25 25 in the middle of the night or whenever?

12:40:27 1 A. Yes.

12:40:27 2 Q. And when you were hard to see him in that period of
12:40:30 3 time, didn't you tell him that that was part your fault
12:40:35 4 because you were going to court, you were doing other
12:40:37 5 things?

12:40:37 6 A. Yes, I was doing an internship at the court house in
12:40:42 7 Brooklyn, and it was like an hour commute.

12:40:46 8 Q. Notwithstanding which day you were asked about, there
12:40:49 9 is no confusion in your head that you had time to spend with
12:40:52 10 your father while he was in New York, even if it's not in
12:40:55 11 that one day that this exchange occurred, is that true?

12:40:58 12 A. To the best of my recollection.

12:41:03 13 Q. And there is no doubt in your mind when you left the
12:41:06 14 truck off with him, the safe was intact?

12:41:08 15 A. Yeah, there is no doubt.

12:41:11 16 Q. And when you were asking -- when he was asking
12:41:15 17 questions and you were talking about the years that you knew
12:41:18 18 him and saw him, et cetera, you were saying when he was
12:41:21 19 struggling, he was not communicative, you're not seeing him,
12:41:25 20 right?

12:41:26 21 A. Yeah.

12:41:26 22 Q. Is that what you meant?

12:41:28 23 A. Yes.

12:41:29 24 Q. But in October of '18, was he communicative?

12:41:34 25 A. Yes.

12:41:34 1 Q. Were you seeing him?

12:41:36 2 A. Yes.

12:41:37 3 Q. Was that after you said you were proud of him?

12:41:40 4 A. Yes.

12:41:42 5 MR. LOWELL: That's all I have.

12:41:44 6 THE COURT: All right. Thank you. You may step
12:41:48 7 down.

12:41:49 8 We are going to take our lunch break.

12:41:52 9 MR. LOWELL: Yes, ma'am.

12:41:53 10 THE COURT: We're going to take our lunch break
12:41:55 11 and come back in about an hour.

12:41:57 12 COURTROOM DEPUTY: All rise.

12:41:59 13 (Jury exiting the courtroom at 12:41 p.m.)

12:42:28 14 THE COURT: Very quick side-bar.

12:43:52 15 (Side-bar discussion.

12:43:52 16 THE COURT: I just want to make sure we're
12:43:52 17 candid about anything, it was in the courtroom and the juror
12:43:52 18 on the end.

12:43:52 19 MR. LOWELL: Back row.

12:43:52 20 THE COURT: Back row on the end, at one point it
12:43:52 21 was when you were waiting for Ms. Biden to come -- no, it
12:43:52 22 was after Mr. Turner testified, and he just pulled Mark over
12:43:52 23 and said, if the prosecutor, and Mark said, can't talk about
12:43:52 24 it. But that was -- I just wanted you to know so that there
12:43:52 25 is no discussions going on that you don't know about.

12:43:52 1 MR. LOWELL: Thank you for that.

12:43:52 2 MR. HINES: Thank you, Your Honor.

12:43:52 3 MR. LOWELL: See you after lunch.

12:43:52 4 (End of side-bar.)

12:43:52 5 COURTROOM DEPUTY: All rise.

12:44:21 6 (A luncheon recess was taken.)

13:38:25 7 THE COURT: All right. So I understand with
13:38:29 8 timing and everything we're going to break for the day?

13:38:32 9 MR. LOWELL: Yes, ma'am.

13:38:32 10 THE COURT: Normally -- everyone can sit down.

13:38:35 11 I would normally just allow the jury to go, but given that
13:38:40 12 it's Friday, I just want to give them sort of an admonition
13:38:44 13 of don't talk, don't listen, don't do anything, just because
13:38:47 14 it's a weekend, if that's okay with you guys.

13:38:51 15 MR. LOWELL: What we are going to ask you to
13:38:53 16 add, I heard it and it makes sense, it's not a surprise to
13:38:56 17 the outside world that in the middle of this trial this week
13:38:59 18 a few members of Congress decided to make news by making
13:39:03 19 accusations against my client, that's not about this case,
13:39:07 20 so the question is not to read anything --

13:39:09 21 THE COURT: Not just the case, but anybody
13:39:12 22 involved in the case.

13:39:12 23 MR. LOWELL: Could you do that?

13:39:14 24 THE COURT: Yes, I'm happy to do that.

13:39:16 25 MR. HINES: Your Honor, just so I'm clear, at

13:39:18 1 this point we understand that no more defense witnesses
13:39:21 2 absent a decision by the defendant.

13:39:23 3 MR. LOWELL: We've decided not to call that
13:39:25 4 witness regardless of the timing issue and that's fair to
13:39:27 5 you, of course. But we have to make that other decision and
13:39:30 6 do the other things. Okay.

13:39:33 7 THE COURT: There were two other potential ones.

13:39:35 8 MR. LOWELL: Again, because of the wonderful job
13:39:37 9 that my colleague did, we don't need to call Dr. Coyer, we
13:39:43 10 we are down to that last decision.

13:39:46 11 THE COURT: The last decision. And I do have
13:39:48 12 jury instructions which I'll send out to you guys and let's
13:39:51 13 plan to be here, can we do 8:15 on Monday?

13:39:55 14 MR. HINES: Yes. I just want to make clear that
13:39:59 15 we are still considering whether we may do a rebuttal case
13:40:02 16 in light of some of the information.

13:40:04 17 THE COURT: That's fine. I want to make sure
13:40:06 18 we're ready to go to the extent --

13:40:08 19 MR. LOWELL: Assuming that there is only one
13:40:10 20 potential witness, will you know with that decision will be
13:40:14 21 made.

13:40:15 22 MR. HINES: I will know when you make the
13:40:16 23 decision. If you tell me over the weekend I can let you
13:40:19 24 know.

13:40:19 25 MR. LOWELL: We'll figure that out together.

13:40:22 1 THE COURT: Let's bring the jury in, and
13:40:24 2 hopefully they're back.

13:40:29 3 I'm just going to tell them that I have some
13:41:53 4 things that I need to work out so that's why I'm letting
13:41:57 5 them go.

13:43:33 6 (Jury entering the courtroom at 1:43 p.m.)

13:43:39 7 THE COURT: All right. Members of the jury,
13:44:01 8 thanks for coming back. So everyone can be seated.

13:44:06 9 So we are starting to wrap up the evidence in
13:44:09 10 this case. And that means that I have some things I need to
13:44:12 11 take care of in terms of making sure I have the jury
13:44:15 12 instructions that I am going to give to you ultimately when
13:44:18 13 all the evidence is finished.

13:44:21 14 So in order for us to get that done in an
13:44:23 15 efficient manner, what I am going to do is I am going to
13:44:27 16 excuse you all early today so you can enjoy a long weekend,
13:44:31 17 maybe get some warmth outside of this courtroom because I
13:44:35 18 know it's crazy cold, but trust me, it's better than when
13:44:39 19 it's hot because that's gross.

13:44:41 20 I wanted to bring you in before I did that so I
13:44:44 21 can just remind you, it's going to be a weekend and you may
13:44:47 22 be hanging out with your family, may be hanging out with
13:44:50 23 friends and they might just be curious because you're on
13:44:53 24 this jury. You really cannot talk with anyone. It's
13:44:56 25 graduation season. You may be at a party or a barbecue.

13:45:00 1 You may go to religious services where people want to talk
13:45:04 2 about it or hear about it. You cannot be involved in that.
13:45:08 3 Okay? And if you are, you have to get yourself out of it
13:45:12 4 and you're going to have to tell us about it just so that we
13:45:16 5 can ensure that nothing has been said that would affect your
13:45:19 6 opinions because we just really want to make sure this is
13:45:22 7 fair for everybody involved. Okay.

13:45:24 8 And so, I know you're not going to do any
13:45:27 9 research on your own, but just I ask you don't look at
13:45:31 10 anything about this case, and when I say this case, I mean
13:45:34 11 any of the parties involved in it, anything that could
13:45:37 12 possibly get you to a place where you might accidentally see
13:45:41 13 something about this case.

13:45:42 14 All right. With that, I will wish you a very
13:45:45 15 happy long weekend or longish weekend and a half a day.

13:45:49 16 Safe travels to you all and we'll see you here
13:45:52 17 on Monday morning.

13:45:54 18 COURTROOM DEPUTY: All rise.

13:45:56 19 (Jury exiting the courtroom at 1:45 p.m.)

13:46:26 20 THE COURT: All right. Anything we need to
13:46:28 21 discuss?

13:46:29 22 MR. HINES: Did you say 8:15 Monday?

13:46:32 23 THE COURT: 8:15, does that work for everybody.

13:46:34 24 MR. HINES: Yes.

13:46:35 25 THE COURT: 8:15. Have a good weekend.

13:46:38 1

COURTROOM DEPUTY: Court is adjourned.

13:46:45 2

(Court adjourned at 1:46 p.m.)

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I hereby certify the foregoing is a true and accurate transcript from my stenographic notes in the proceeding.

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/s/ Dale C. Hawkins
Official Court Reporter
U.S. District Court

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