

1 **IN THE COURT OF COMMON PLEAS OF HENRY COUNTY, OHIO**

2 **STATE OF OHIO,**

3 **Plaintiff,**

*

Case No. 15CR0082

4 **-VS-**

*

5 **CULLEN A. PARSONS,**

*

TRANSCRIPT OF PROCEEDINGS

6 **Defendant.**

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10 HEARD:

11 July 20, 2023

12 BEFORE:

13 HON. AMY C. ROSEBROOK,
 JUDGE

14 - - - - -

15 APPEARANCES:

16 Gwen Howe-Gebers, Henry County Prosecuting Attorney,
 on behalf of PLAINTIFF

17 Michael Aird, Michael Stahl, and Bill Stephenson, Attorneys,
 on behalf of DEFENDANT

19 - - - - -

20 Prepared by:

21 Andrea M. Burgel
 Official Court Reporter
 Court of Common Pleas
 Henry County Courthouse
 Napoleon, Ohio

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1 THE COURT: This is
2 case number 15CR0082, State of Ohio verses Cullen A. Parsons.
3 This matter is coming on for a hearing on Defendant's Motion
4 for Leave to File Delayed Motion for a New Trial filed on March
5 20, 2023. The Defendant is present in open court along with
6 his attorney Mr. Aird, is that correct?

7 MR. AIRD: Yes Your
8 Honor.

9 THE COURT: And who
10 else do I have present today?

11 MR. STAHL: Your Honor
12 Mike Stahl on behalf Cullen Parsons, I believe I've been before
13 you. With me is also my law partner Bill Stephenson.

14 MR. STEPHENSON:
15 Morning Your Honor.

16 THE COURT: Thank you
17 gentlemen. Representing the State of Ohio is Ms. Howe-Gebers.
18 I will allow parties to give a brief opening statement and then
19 we'll move into testimony phase. Who is going to be
20 presenting?

21 MR. STEPHENSON: Your
22 Honor I believe it is our burden.

23 THE COURT: Yes, did
24 one of you, who wants to give the opening statement?

25 MR. STAHL: I will Your

1 Honor.

2 THE COURT: Okay, thank
3 you.

4 MR. STAHL: Your Honor
5 just briefly, our burden here is to demonstrate that this
6 evidence is truly newly discovered. I think we will be able to
7 demonstrate that, we do have, in addition to what was presented
8 in the document we do have some other relevant evidence that
9 will be coming forward, one of which is a report from the MAN
10 Unit about the conversation that took place before the
11 interview with the Henry County Prosecutors, or Henry County
12 Sheriff's Office, as well as Mr. Valle's cell assignment
13 records from CCNO and the actual recording of the September 17th
14 conversation which we have a transcript from the Defiance
15 County Prosecutors Office previously, we obtained that
16 recording from the MAN Unit and I believe we'll have Mr.,
17 Commander Nofziger come in and attest to that and I believe we
18 are ready to move forward.

19 THE COURT: Ms. Howe-
20 Gebers?

21 MS. HOWE-GEBERS: I'll
22 waive opening statement Your Honor.

23 THE COURT: You may
24 call your first witness.

25 MR. AIRD: Your Honor

1 Defense would move for a separation of witnesses before we
2 start.

3 THE COURT: Are there
4 any persons in the courtroom who will be testifying? Okay, no
5 one here will be testifying in this matter? I will order
6 though, the separation of witnesses.

7 MR. STEPHENSON:
8 Defense will call Mr. Nofziger, Commander Nofziger from the MAN
9 Unit first.

10 THE COURT: Sir can you
11 please come to the witness stand, raise your right hand and be
12 sworn by the bailiff?

13 BAILIFF: Do you swear
14 the testimony you are about to give is the truth, the whole
15 truth and nothing but the truth so help you God?

16 MR. NOFZIGER: Yes I
17 do.

18 BAILIFF: Thank you.

19 THE COURT: You may be
20 seated. Mr. Stahl, or Stephenson. Okay.

21 MR. STEPHENSON: Yeah,
22 it's kind of musical chairs here on witnesses Your Honor.
23 Commander Nofziger can you state your full name for the record
24 please?

25 MR. NOFZIGER: Max, M-

1 A-X, Nofziger, N-O-F-Z-I-G-E-R.

2 MR. STEPHENSON: And
3 what do you do for a living now?

4 MR. NOFZIGER: I am a
5 Deputy Sheriff assigned to Defiance, but I'm the Commander of
6 the drug task force, which covers six counties.

7 MR. STEPHENSON: And
8 what's the name of that?

9 MR. NOFZIGER: Multi-
10 Area Narcotics Task Force.

11 MR. STEPHENSON: So the
12 acronym is MAN, is that correct?

13 MR. NOFZIGER: Correct.
14 MR. STEPHENSON: And
15 are you familiar with the case of State of Ohio verses Cullen
16 Parsons?

17 MR. NOFZIGER: I am
18 now.

19 MR. STEPHENSON: And
20 you actually met me before during subpoena process is that
21 correct?

22 MR. NOFZIGER: Correct.
23 MR. STEPHENSON: And
24 also Michael Aird who is sitting next to me?

25 MR. NOFZIGER: Yes,

1 correct.

2 MR. STEPHENSON: And we
3 served a subpoena on you, is that right?

4 MR. NOFZIGER: Correct.

5 MR. STEPHENSON: Which
6 was for some records that were involved in this case?

7 MR. NOFZIGER: Correct.

8 MR. STEPHENSON: And
9 those records would have been, it involved a, well first off,
10 can you tell us what's your, some of your duties are with
11 respect to the MAN Unit in terms of being the Commander and
12 records, along with record keeping and things of that nature.

13 MR. NOFZIGER: Yes, I'm
14 custodian of those records and obviously the prosecutor's
15 office, I work with the prosecutor's office on those records as
16 well.

17 MR. STEPHENSON: Okay
18 and did we, in fact, serve a subpoena on you for certain
19 records regarding Cullen Parsons?

20 MR. NOFZIGER: Correct.

21 MR. STEPHENSON: And do
22 you recall that there was a report that was made by a Ben
23 Williams, is he an, was he working with the MAN Unit?

24 MR. NOFZIGER: Yes he
25 was.

1 MR. STEPHENSON: Okay
2 and so he's under your command, is that right?

3 MR. NOFZIGER: He was.

4 MR. STEPHENSON: Or he
5 was at the time?

6 MR. NOFZIGER: Yeah,
7 and I wasn't the Commander at this time so, but I did work as
8 the Supervisor and so just to give you a little brief, so they
9 give me an agent, or an officer or a deputy, I train them to do
10 narcotics investigations and sometimes that depends on the
11 department or depends on the agency, it might be three years,
12 it might be four years, it might be five years, so I took over
13 as Supervisor in 2017 on January 1st and this situation that
14 we're talking about here today happened before as me as the
15 Commander.

16 MR. STEPHENSON: It
17 happened in 2015, right?

18 MR. NOFZIGER: Correct.

19 MR. STEPHENSON: But in
20 2015 you still, you were still a supervisor or an agent over
21 Mr. Williams, is that right? Is that what you're telling me or
22 do I have that wrong?

23 MR. NOFZIGER: Yeah,
24 you have that wrong.

25 MR. STEPHENSON: Okay,

1 clarify that please.

2 MR. NOFZIGER: I was
3 actually a Lieutenant, Staff Lieutenant for Fulton County
4 Sheriff's Office in 2015. 2017 is when I took over as
5 Commander.

6 MR. STEPHENSON: Okay.
7 But in terms, so, what you are saying though is that Mr.
8 Williams became a, or was a member of the MAN Unit back in
9 2015.

10 MR. NOFZIGER: Correct,
11 correct.

12 MR. STEPHENSON: And
13 you are in charge of the records going back to forever because
14 now you, in fact, are the Commander.

15 MR. NOFZIGER: Correct.

16 MR. STEPHENSON: Okay,
17 can you, let me first hand you a couple of exhibits. Your
18 Honor can I approach the witness?

19 THE COURT: Yes.

20 MR. STEPHENSON:
21 Commander I'm going to hand you a series of exhibits, first I'm
22 going to hand you what's marked as Defendant's Exhibit A, can
23 you, have you ever seen that before?

24 MR. NOFZIGER: I
25 believe so, it kind of looks familiar to...

1 MR. STEPHENSON: Can
2 you tell us what it is?

3 MR. NOFZIGER: It's an
4 envelope addressed to the Henry County Prosecutor to your law
5 firm.

6 MR. STEPHENSON: From?

7 MR. NOFZIGER: From
8 Gwen, the prosecutor.

9 MR. STEPHENSON: So did
10 you provide, did you provide the materials to Gwen for review
11 prior to sending it to our office?

12 MR. NOFZIGER: Yes I
13 did.

14 MR. STEPHENSON: Okay.
15 So I'm next going to hand you what is, I'm going to go a little
16 bit out of order, Defendant's Exhibit C, and ask you if you've
17 ever seen that before?

18 MR. NOFZIGER: Yes.

19 MR. STEPHENSON: And
20 can you tell the Court what that is?

21 MR. NOFZIGER: That is
22 the report that I provided to, in this envelope.

23 MR. STEPHENSON: And
24 that report is from Officer Williams? What was his title?
25 Lieutenant back then?

1 MR. NOFZIGER: He is...

2 MR. STEPHENSON: He's a

3 lieutenant now?

4 MR. NOFZIGER: Yeah,

5 he's a lieutenant now.

6 MR. STEPHENSON: What

7 was he then, just a patrolman?

8 MR. NOFZIGER: Yeah...

9 MR. STEPHENSON:

10 Detective?

11 MR. NOFZIGER:

12 Patrolman.

13 MR. STEPHENSON: So

14 that letter was from him?

15 MR. NOFZIGER: This

16 report was from him and the letter...

17 MR. STEPHENSON: In

18 that envelope?

19 MR. NOFZIGER: That was

20 from me.

21 MR. STEPHENSON: And

22 the substance of that is regarding a statement that Mr. Valle

23 made regarding Mr. Parsons, regarding the investigation,

24 correct?

25 MR. NOFZIGER: Correct.

1 MR. STEPHENSON: Okay,
2 and is that a true and accurate copy of the statement or the,
3 what's it called?

4 MR. NOFZIGER: It's a
5 report, an initial report.

6 MR. STEPHENSON: Report
7 from Patrolman Williams?

8 MR. NOFZIGER: Yes.

9 MR. STEPHENSON: Okay
10 and I'm now going to hand you what is marked as Defendant's
11 Exhibit B. Do you know what that is?

12 MR. NOFZIGER: Yes,
13 this is the statement that the initial report is referring to.

14 MR. STEPHENSON: Okay,
15 so that is the actual statement?

16 MR. NOFZIGER: Yes.

17 MR. STEPHENSON: And
18 that is a recording?

19 MR. NOFZIGER: Yes that
20 I extracted from the stand alone computer.

21 MR. STEPHENSON: And
22 that is a true and accurate copy as well?

23 MR. NOFZIGER: Correct.

24 MR. STEPHENSON: Are
25 these are of the documents that you provided to the

1 prosecution?

2 MR. NOFZIGER: Yes.

3 MR. STEPHENSON: Are
4 there any documents that you provided to the prosecution that
5 was not received by the defense?

6 MR. NOFZIGER: No, this
7 was it.

8 MR. STEPHENSON: Just
9 for clarification of the record, I think this may have been my
10 slip up, we had referenced a letter, but there is no letter is
11 there? It's just a report?

12 MR. NOFZIGER: It is
13 just a report.

14 MR. STEPHENSON: Okay,
15 so there is no letter...

16 MR. NOFZIGER: Correct.
17 MR. STEPHENSON: ...that
18 we're talking about, simply a report?

19 MR. NOFZIGER: Correct.
20 MR. STEPHENSON: Okay,
21 so the next question I have, is there a process that, um, you
22 use as the director of the MAN Unit in transferring a witness's
23 information to a prosecutor's office that may or may not be
24 from your home county of operation?

25 MR. NOFZIGER: So me

1 being employed through Defiance County, Prosecutor Morris
2 Murray is my legal adviser and my legal adviser Morris Murray
3 has said that I needed to confer with the Henry County
4 Prosecutor.

5 MR. STEPHENSON: Where
6 it is a Henry County case.

7 MR. NOFZIGER: Correct.

8 MR. STEPHENSON: Okay.

9 MR. NOFZIGER: And so,
10 and he had said, provide this stuff to her.

11 MR. STEPHENSON: So you
12 conferred first with the Defiance County Prosecutor who gave
13 you the advice of how to proceed.

14 MR. NOFZIGER: Correct.

15 MR. STEPHENSON: Is
16 there any written policy or is it simply kind of a case-by-case
17 basis, that you confer with your own county prosecutor as how
18 to proceed with cases in other counties?

19 MR. NOFZIGER: It's
20 always ran through as a, as me looking for legal advice and me
21 not being an attorney and I've always ran it through the
22 Defiance County Prosecutor, Morris Murray.

23 MR. STEPHENSON: So as
24 a practical matter that is what you do, but is there a written
25 policy in place in your unit?

1 MR. NOFZIGER: Not per
2 say I don't think.

3 MR. STEPHENSON: So
4 your primary duty and primary mission is drug investigations I
5 think you said, is that correct?

6 MR. NOFZIGER: That is
7 correct.

8 MR. STEPHENSON: So
9 what is the procedure of circumstance whereas here, it is a
10 non-drug investigation. Is it the same or is there a different
11 procedure?

12 MR. NOFZINGER: Yeah,
13 um, so...

14 MS. HOWE-GEBERS:
15 Objection as to the relevance of this line of testimony, I
16 don't know where we are going with this, how it relates to Mr.
17 Parsons' case when Defiance County MAN Unit was not the
18 principal investigator of that case.

19 MR. STEPHENSON: Your
20 Honor it's our anticipation that Hawken Flanagan, who is the
21 prosecutor of the underlying case is going to testify that he
22 did not see this document, therefore, this question is
23 relevant.

24 THE COURT: I'll allow
25 it.

1 MR. STEPHENSON: Okay.

2 MR. NOFZIGER: So as
3 everybody is aware drugs and other crimes kind of hand in hand,
4 correct? So it would be at that point in time where we do
5 specify on narcotics investigations because of the length of
6 those narcotics investigation, but every once in a while we
7 will come across some information or some, something that will
8 be relevant to a case that we're not, per say, working so then
9 we would contact a detective that possibly is working that case
10 or take the information and then provide that as well.

11 MR. STEPHENSON: And is
12 that what happened here? This was information that came from
13 a, or you were perhaps working on a drug case and then gained
14 information that was non-drug case so you furthered that
15 information to the detective who may have been assigned to such
16 case?

17 MR. NOFZIGER: Correct.

18 MR. STEPHENSON: And
19 that is, in fact, what happened in this matter?

20 MR. NOFZIGER: Yeah, so
21 there is a, like I explained earlier, a long drug operation and
22 then there is this information that when we interview maybe the
23 defendant is from a drug investigation that we're doing and
24 they provide us other information on some other crimes that
25 they themselves or they are aware of.

1 MR. STEPHENSON: Do you
2 recall who this information was passed along to in specific
3 case? I mean, obviously, you took down the information and it
4 would have been passed to somebody. Do you recall who that
5 somebody was?

6 MR. NOFZIGER: Well
7 correction, I did not take down this information.

8 MR. STEPHENSON: Oh I'm
9 sorry, I'm sorry, by you, I meant the MAN Unit came across...

10 MR. NOFZIGER: Yeah.
11 MR. STEPHENSON: The
12 Officer Williams, correct?

13 MR. NOFZIGER: Yeah,
14 it'd be hard for me to testify when I wasn't even there at that
15 time.

16 MR. STEPHENSON: So it
17 would be Officer Williams who would be aware of that?

18 MR. NOFZIGER: That
19 would probably be a proper question for him.

20 MR. STEPHENSON: Last
21 question, just to wrap up and be clear, but it is, since you
22 are the person who creates the policies or promulgates the
23 policies, it is the policy of the MAN unit to pass this
24 information along to what other law enforcement entity you
25 believe may be interested in it.

1 MR. NOFZIGER: Yes, we
2 all work together.

3 MR. STEPHENSON: No,
4 nothing further.

5 THE COURT: Ms. Howe-
6 Gebers?

7 MS. HOWE-GEBERS:
8 Nothing of this witness Your Honor.

9 THE COURT: Sir you may
10 step down.

11 MR. NOFZIGER: Am I
12 excused?

13 THE COURT: Is there
14 any reason why this witness cannot be excused?

15 MR. STAHL: I don't
16 believe so.

17 MR. STEPHENSON: No,
18 not from defense.

19 THE COURT: You may be
20 excused. You may call your next witness.

21 MR. STEPHENSON: Yes,
22 defense will next call Patrolman Williams. Lieutenant now,
23 Lieutenant.

24 BAILIFF: Lieutenant
25 who?

1 MR. STAHL: Williams.
2 THE COURT: Sir can you
3 please come to the witness stand.

4 MR. WILLIAMS: Yes.
5 THE COURT: Raise your
6 right hand and be sworn by the Bailiff.

7 BAILIFF: Do you swear
8 the testimony you are about to give is the truth, the whole
9 truth and nothing but the truth, so help you God?

10 MR. WILLIAMS: Yes
11 ma'am.

12 BAILIFF: Thank you.
13 THE COURT: You may be
14 seated. Mr. Stephenson.

15 MR. STEPHENSON: Thank
16 you Your Honor. Lieutenant Williams can you state your full
17 name for the record please?

18 MR. WILLIAMS: Sure,
19 Ben Williams.

20 MR. STEPHENSON: And
21 you are currently a lieutenant in what department?

22 MR. WILLIAMS: Defiance
23 City.

24 MR. STEPHENSON: Police
25 Department?

1 MR. WILLIAMS: Yes sir.

2 MR. STEPHENSON: And
3 how long have you been a Lieutenant with the Defiance City
4 Police Department?

5 MR. WILLIAMS: I've
6 been a Lieutenant for five years roughly.

7 MR. STEPHENSON: And
8 going back to 2015 were you employed by the MAN Unit?

9 MR. WILLIAMS: I was,
10 yes.

11 MR. STEPHENSON: But
12 you were also a police officer in some other department, is
13 that right?

14 MR. WILLIAMS: Still
15 Defiance City as a Drug Task Force, I was just currently
16 assigned them at the time.

17 MR. STEPHENSON: Okay,
18 what was your title as a police officer at that time with
19 Defiance, Patrolman?

20 MR. WILLIAMS: I was a
21 patrolman, yes sir.

22 MR. STEPHENSON: And
23 what was your title with the MAN Unit back in 2015?

24 MR. WILLIAMS: Just a
25 drug agent for the Drug Task Force.

1 MR. STEPHENSON: And
2 going back to 2015 were you familiar with an investigation
3 involving a Cullen Parsons?

4 MR. WILLIAMS: I was.
5 MR. STEPHENSON: I'm
6 going to, may I approach the witness again?

7 THE COURT: Yes.

8 MR. STEPHENSON: I'm
9 going to ask you to look at some documents that are right in
10 front of you.

11 MR. WILLIAMS: Yes sir.

12 MR. STEPHENSON: And
13 simply identify them for the record if you know what they are.

14 MR. WILLIAMS: Sure,
15 yes sir.

16 MR. STEPHENSON: One
17 you may not, one you probably have not seen.

18 MR. WILLIAMS: Okay.

19 MR. STEPHENSON: Which
20 is A1.

21 MR. WILLIAMS: Okay.

22 MR. STEPHENSON: Have
23 you ever seen that before?

24 MR. WILLIAMS: I have
25 not.

1 MR. STEPHENSON: That's
2 okay, I didn't think you had, there was not trick there. Now
3 on the other hand, Defense Exhibit C.

4 MR. WILLIAMS: Yes.

5 MR. STEPHENSON: You
6 have seen that before, is that right?

7 MR. WILLIAMS: Yes sir.

8 MR. STEPHENSON: Can
9 you tell the Court what Exhibit C is?

10 MR. WILLIAMS: This
11 would be the narrative that I drafted when I was at the Drug
12 Task Force, referenced, it looks like it was the meeting I had
13 with Prosecutor Murray, Rolando Valle, Attorney Sondergaard,
14 yes.

15 MR. STEPHENSON: And
16 Prosecutor Murray was who?

17 MR. WILLIAMS: He was
18 the Defiance County Prosecutor at the time.

19 MR. STEPHENSON: Was he
20 the elected prosecutor or an assistant? Do you know?

21 MR. WILLIAMS: He was
22 the elected.

23 MR. STEPHENSON: Okay,
24 and you said, and Rolando Valle was who?

25 MR. WILLIAMS: He was a

1 suspect in a suspect in a drug case that we had been working
2 with the Drug Task Force.

3 MR. STEPHENSON: He had
4 information that he was providing to you regarding another
5 case.

6 MR. WILLIAMS: Correct.

7 MR. STEPHENSON: And
8 that other case what State of Ohio verses Cullen Parsons, it
9 may not have been titled State of Ohio yet but it was an active
10 investigation, right?

11 MR. WILLIAMS: Yes sir.

12 MR. STEPHENSON: Who
13 was the attorney?

14 MR. WILLIAMS: Attorney
15 Sondergaard.

16 MR. STEPHENSON: And
17 who is that?

18 MR. WILLIAMS: He was
19 defending Rolando Valle at the time.

20 MR. STEPHENSON: So he
21 was representing Mr. Rolando Valle?

22 MR. WILLIAMS: Yes, yes
23 sir.

24 MR. STEPHENSON: Okay,
25 and can you tell the Court what the substance of this letter,

1 I'm sorry, this report is?

2 MR. WILLIAMS: Sure.

3 MR. STEPHENSON: I

4 looked this over, mind you it's been since 2015.

5 MR. WILLIAMS: Sure,

6 sure.

7 MR. STEPHENSON: We had

8 a drug case involving Rolando Valle. Rolando was indicted for

9 trafficking in cocaine so we had brought him in, actually our

10 prosecutor set up a meeting with his attorney, he was going to

11 provide information through his source of supply for cocaine at

12 that time, because we were trying to obtain as much information

13 as we could to further our drug investigations. Towards the

14 end of the interview, if you read through the transcripts of

15 the audio of which I assume this is, he was asked what other

16 further information you had that might benefit or help law

17 enforcement with any other open cases and that's when he had

18 brought up the Parsons case.

19 MR. STEPHENSON: Okay,

20 and that was regarding an alleged shooting is that correct?

21 MR. WILLIAMS: Yes sir.

22 MR. STEPHENSON: Okay,

23 can I approach again?

24 THE COURT: Yes.

25 MR. STEPHENSON: We'll

1 get to this next document here in a second. Is this a, what is
2 marked as Defendant's Exhibit C I believe.

3 MR. WILLIAMS: Yes.

4 MR. STEPHENSON: Is
5 that a true and accurate copy of the report that you provided?

6 MR. WILLIAMS: Yes it
7 is.

8 MR. STEPHENSON: And
9 can you tell us who this would have been forwarded to? What
10 other law enforcement agency?

11 MR. WILLIAMS: Sure,
12 for an instance like this when we have obtained information for
13 another agency or another jurisdiction I would then forward it
14 on, I currently at the time, the drug task force had a
15 representative from Henry County Sheriff's Office, so more than
16 likely I forwarded it to that Henry County Agent to send it to
17 the investigators for whatever case they were working in Henry
18 County.

19 MR. STEPHENSON: Would
20 that have been likely the Sheriff's Department or?

21 MR. WILLIAMS: Yes sir.

22 MR. STEPHENSON: Or
23 Napoleon City or a conglomerate?

24 MR. WILLIAMS: I
25 couldn't tell you exactly, but if it was a county case I would

1 tell you we had a representative from Napoleon and also Henry
2 County, so I would venture to say it was Henry County.

3 MR. STEPHENSON: Okay,
4 okay, so that Valle was being prosecuted for a cocaine
5 trafficking offense?

6 MR. WILLIAMS: Yes sir.

7 MR. STEPHENSON: Was,
8 how much cocaine was involved in that?

9 MR. WILLIAMS: He was
10 up to the, I read through this before hand, I think we had
11 three direct buys with him for an ounce level, so he was at the
12 felony one level for cocaine.

13 MR. STEPHENSON: Okay,
14 thank you.

15 MR. WILLIAMS: Yes sir.
16 MR. STEPHENSON: Now
17 next, this is marked B. Defendant's Exhibit B, have you seen
18 that before?

19 MR. WILLIAMS: No I
20 have not. I'm guessing, let me look at the case numbers, yeah
21 I see a case number right here. Okay, so this is basically the
22 transcription from, or the audio that was transcribed
23 referenced the meeting that I drafted this narrative for, this
24 meeting with the prosecutors, or the prosecutor, Mr. Valle and
25 then Attorney Sondergaard.

1 MR. STEPHENSON: Okay.

2 MR. WILLIAMS: So this
3 is the meeting that we had that was transcribed.

4 MR. STEPHENSON: Okay,
5 so that is a true and accurate copy as far as you know of the
6 transcribing the meeting that you had?

7 MR. WILLIAMS: Yes sir.

8 MR. STEPHENSON: Okay.

9 Your Honor we'd like to play parts of this for the hearing.

10 THE COURT: I'll allow
11 it.

12 MR. STEPHENSON:
13 Lieutenant we are just going to play some experts from this and
14 ask you to verify the authenticity, if it is what is purports
15 to be.

16 MR. WILLIAMS: Sure, no
17 problem, yes sir.

18 MR. STEPHENSON: So
19 what I'll do is we'll play it, then we'll stop it, then I'll
20 ask you if that is authentic.

21 MR. WILLIAMS: Okay.

22 (PLAYING OF A PORTION OF EXHIBIT B)

23 MR. STEPHENSON: Was
24 that the extent of the first one?

25 MR. AIRD: That was the

1 first clip.

2 MR. STEPHENSON: Did
3 you recall that at all?

4 MR. WILLIAMS: I do,
5 yes sir.

6 MR. STEPHENSON: Does
7 that appear to be true and authentic with regards to what
8 happened?

9 MR. WILLIAMS: Yes sir.

10 MR. STEPHENSON: Let's
11 go to the next please?

12 (PLAYING OF A PORTION OF EXHIBIT B)

13 MR. STEPHENSON: Okay,
14 do you recall that conversation Lieutenant?

15 MR. WILLIAMS: I do.

16 MR. STEPHENSON: Is
17 that a true and accurate representation of how this
18 interrogation went down?

19 MR. WILLIAMS: Yes sir.

20 MR. STEPHENSON:
21 Alright, go on to the next please.

22 (PLAYING OF A PORTION OF EXHIBIT B)

23 MR. STEPHENSON:
24 Lieutenant, also, do you recognize or remember that
25 conversation?

1 MR. WILLIAMS: Yes.

2 MR. STEPHENSON: And

3 again, is that a true and accurate representation of the way

4 the interrogation took place?

5 MR. WILLIAMS: Yes.

6 MR. STEPHENSON: Those

7 were the words that were said and etcetera, etcetera?

8 MR. WILLIAMS: Yes sir.

9 MR. STEPHENSON:

10 Alright, one more clip.

11 (PLAYING OF A PORTION OF EXHIBIT B)

12 MR. STEPHENSON:

13 Lieutenant you say you've heard that right?

14 MR. WILLIAMS: I have.

15 MR. STEPHENSON: And

16 again, is that a true and accurate representation of the way

17 the interrogation went down?

18 MR. WILLIAMS: Correct,

19 yes.

20 MR. STEPHENSON: And

21 there is nothing added to it or subtracted, that's the way it

22 is?

23 MR. WILLIAMS: No, that

24 was a section of it, correct.

25 MR. STEPHENSON: Okay,

1 I think we have one more.

2 (PLAYING OF A PORTION OF EXHIBIT B)

3 MR. STEPHENSON:

4 Deputy, so first, is that also a true and accurate and
5 authentic representation of the recording of the interview you
6 had with Mr. Valle?

7 MR. WILLIAMS: Yes sir.

8 MR. STEPHENSON: So one
9 last thing, there is a thumb drive over there, can you see that
10 from, on defense table?

11 MR. WILLIAMS: In the
12 computer?

13 MR. STEPHENSON: Yes.

14 MR. WILLIAMS: Yes.

15 MR. STEPHENSON: I'm
16 going to pull that out.

17 MR. WILLIAMS: Okay.

18 MR. STEPHENSON: It's
19 just marked as Defense Exhibit D; can you see me pulling it
20 out?

21 MR. WILLIAMS: Yeah,
22 you're good.

23 MR. STEPHENSON: Okay.

24 MS. HOWE-GEBERS: I'll
25 stipulate that that is what we just heard, we don't have to

1 have him watch...

2 MR. STEPHENSON: That
3 works, that works.

4 THE COURT: That CD is
5 what we just heard?

6 MR. STEPHENSON: Yes,
7 so D.

8 MS. HOWE-GEBERS: Thumb
9 drive.

10 MR. STEPHENSON: D, the
11 thumb drive is the same thing as the CD that we just heard.

12 THE COURT: Okay, very
13 good.

14 MR. STEPHENSON: We
15 have no further questions, thank you.

16 THE COURT: Ms. Howe-
17 Gebers?

18 MS. HOWE-GEBERS:
19 Lieutenant the information, the report that they had shown you,
20 you indicated that would have been forwarded to the Henry
21 County Sheriff's Office, is that correct?

22 MR. WILLIAMS: Yes
23 ma'am.

24 MS. HOWE-GEBERS: Did
25 you ever speak with Mr. Flanagan about Rolando's statement to

1 you?

2 MR. WILLIAMS: No

3 ma'am.

4 MS. HOWE-GEBERS: Are
5 you aware he was listed on a supplemental discovery back on
6 March 4, 2016 that Mr. Hawken provided to counsel, Mr. Zaner?

7 MR. WILLIAMS: No
8 ma'am.

9 MS. HOWE-GEBERS: So at
10 some point someone would have had to talk to him about Mr.
11 Rolando if he appeared as a witness on a discovery motion,
12 correct?

13 MR. WILLIAMS: Yes
14 ma'am.

15 MS. HOWE-GEBERS: Did
16 you talk to anybody other than Prosecutor Murray about
17 Rolando's statement concerning Mr. Parsons?

18 MR. WILLIAMS: Not to
19 my knowledge, no ma'am.

20 MS. HOWE-GEBERS: I
21 have nothing further.

22 THE COURT: Any re-
23 direct?

24 MR. STEPHENSON: No re-
25 direct Your Honor.

1 THE COURT: Sir you may
2 step down. Is there any reason why this witness can't be
3 excused?

4 MR. STEPHENSON: Not
5 from defense.

6 THE COURT: You may be
7 excused.

8 MR. WILLIAMS: Okay,
9 thank you Your Honor.

10 THE COURT: You can
11 call your next witness.

12 MR. STEPHENSON: Your
13 Honor Defendant would call Sheriff Bodenbender please.

14 THE COURT: Sir you may
15 come to the witness stand, raise your right hand and be sworn
16 by the bailiff.

17 BAILIFF: Do you swear
18 the testimony you are about to give is the truth, the whole
19 truth and nothing but the truth, so help you God?

20 MR. BODENBENDER: Yes I
21 do.

22 BAILIFF: Thank you.

23 THE COURT: You may be
24 seated. Mr. Stephenson.

25 MR. STEPHENSON: Thank

1 you. Sheriff could you please state your full name for the
2 record?

3 MR. BODENBENDER: It's
4 Michael Bodenbender.

5 MR. STEPHENSON: Okay,
6 and you're the sheriff for Henry County is that correct?

7 MR. BODENBENDER: Yes
8 sir.

9 MR. STEPHENSON: And
10 how long have you been sheriff of Henry County?

11 MR. BODENBENDER: Ten
12 years, I believe it is somewhere in the area of ten years, ten
13 and a half years, something like that.

14 MR. STEPHENSON: Since
15 2013 or 2012?

16 MR. BODENBENDER: I
17 believe it is 2013.

18 MR. STEPHENSON: 2013?

19 MR. BODENBENDER: I
20 believe so.

21 MR. STEPHENSON: And
22 during the course of this legal proceeding you've come to be
23 aware of the case of State of Ohio verses Cullen Parsons, is
24 that correct?

25 MR. BODENBENDER: Yes

1 sir.

2 MR. STEPHENSON: And we
3 submitted subpoena duce tecum to your office, is that correct?

4 MR. BODENBENDER: Yes
5 sir.

6 MR. STEPHENSON: And
7 you responded to that?

8 MR. BODENBENDER: Yes
9 sir.

10 MR. STEPHENSON: Okay,
11 I'm going to approach you in a second with some, just some
12 authentication and verification purposes.

13 MR. BODENBENDER: Okay.

14 MR. STEPHENSON: May I
15 approach?

16 THE COURT: Yes.

17 MR. STEPHENSON:
18 Sheriff I'm handing you what's marked as Defense Exhibit G and
19 ask you if you know what that is?

20 MR. BODENBENDER: That
21 is a call for service report that we...

22 MR. STEPHENSON:
23 Generated?

24 MR. BODENBENDER: Yes
25 sir.

1 MR. STEPHENSON:

2 Pursuant to the subpoena in this case?

3 MR. BODENBENDER: Yes

4 sir.

5 MR. STEPHENSON: Okay
6 and is that a true and accurate copy of the police report that
7 you submitted or sheriff's reports that you submitted regarding
8 our subpoena?

9 MR. BODENBENDER: It
10 looks like it.

11 MR. STEPHENSON: Okay,
12 no reason to dispute that?

13 MR. BODENBENDER: No
14 sir.

15 MR. STEPHENSON: And is
16 it correct that, I'll give you a second to review that, then
17 I've got a question for you.

18 MR. BODENBENDER: Okay.

19 MR. STEPHENSON: You
20 ready? Sheriff I'm going to ask you to turn to page 6 of the
21 exhibit. And if you would go down to the, it's the third
22 paragraph, it's titled supporting narrative by Ross Saneholtz
23 dated September 21, 2015 and there is a military time there
24 that appears to be 3:18 in the afternoon in civilian time, is
25 that correct?

1 MR. BODENBENDER: Yes.

2 MR. STEPHENSON: Can
3 you review that paragraph for a minute? Read every word and
4 then I've got a question, a question for you.

5 MR. BODENBENDER: Okay.

6 MR. STEPHENSON: Would
7 you agree that there is no mention of the MAN Unit in that
8 report that you are reading?

9 MR. BODENBENDER: I see
10 nothing about the MAN Unit in there.

11 MR. STEPHENSON: Okay,
12 and who was the, well, strike that, the Henry County Sheriff's
13 Department did have some sort of contact representative with
14 the MAN Unit at that time, is that correct?

15 MR. BODENBENDER: Yes.

16 MR. STEPHENSON: And
17 who would that have been?

18 MR. BODENBENDER: Nick
19 Pieracini.

20 MR. STEPHENSON: Okay
21 and Mr. Pieracini subsequently got in some trouble?

22 MR. BODENBENDER: He
23 did.

24 MR. STEPHENSON: Ended
25 up going to prison.

1 MR. BODENBENDER: Yes
2 sir.

3 MR. STEPHENSON:
4 Regarding a child sex case of some sort?

5 MR. BODENBENDER:
6 Sustained.

7 MS. HOWE-GEBERS:
8 Objection.

9 THE COURT: Sustained.
10 MR. STEPHENSON: Okay.
11 Okay, okay, so is it correct that prior to digging up these
12 reports, that you were not aware of anything regarding Rolando
13 Valle for connection with the MAN Unit?

14 MR. STEPHENSON: No
15 further questions from defense.

16 THE COURT: MAD Howe-
17 Gebers.

18 MS. HOWE-GEBERS:
19 sheriff I'm going to show you what Defense has marked as
20 Exhibit C, of you have it right in front of, sorry. Just take
21 a moment to look at that.

22 MR. BODENBENDER: Okay.
23 MS. HOWE-GEBERS: And
24 That report indicates it was generated by Ben Williams from the
25 MAN Unit, is that correct?

1 MR. BODENBENDER: That
2 is correct.

3 MS. HOWE-GEBERS: Okay,
4 not your representative, Officer Pieracini, correct?

5 MR. BODENBENDER:
6 That's correct.

7 MS. HOWE-GEBERS:
8 Sheriff I'm going to show you what I've marked as State's
9 Exhibit 1, it's in discovery.

10 MR. STEPHENSON: Okay,
11 yeah.

12 MS. HOWE-GEBERS: And
13 just ask you under 16(B) (7) to read what that indicates.
14 You're familiar with discovery, is that correct sheriff?

15 MR. BODENBENDER: Yes
16 ma'am.

17 MS. HOWE-GEBERS: And
18 it's required by the State of Ohio to provide discovery, any
19 reports, any statements or reports, other statement, or
20 recordings that the prosecutor has been received from law
21 enforcement or investigating agencies, correct?

22 MR. BODENBENDER:
23 That's correct.

24 MS. HOWE-GEBERS: Could
25 you read what was disclosed in that section that I just asked

1 you about please?

2 MR. BODENBENDER:

3 Recorded statement attributed; you want me to read out loud?

4 MS. HOWE-GEBERS: Yes

5 please.

6 MR. BODENBENDER: With
7 Charles Nash, Daniel Plotts, Jeremiah Lamb, Nick Badenhop,
8 Rolando Valle, and Kyle Kern have been provided to counsel for
9 Defendant. In addition, recordings of phone calls in which
10 Aisyah Kanard was a participant have been provided to counsel
11 for Defendant, as well as the cell phone extraction reports for
12 cell phones belonging to Cullen Parsons and Aisyah Kanard.
13 These extraction reports contained written messages attributed
14 to Cullen Parsons and Aisyah Kanard.

15 MS. HOWE-GEBERS: And
16 Rolando Valle is listed in there as a recording given to
17 defense counsel, correct?

18 MR. BODENBENDER:

19 That's correct.

20 MS. HOWE-GEBERS: Thank
21 you. I have nothing further.

22 THE COURT: Any re-
23 direct?

24 MR. STEPHENSON: Yeah,
25 we do. Can we get a copy of that?

1 MS. HOWE-GEBERS: Yeah,
2 I'll have to, I don't have a copy with me.

3 MR. STEPHENSON: Can we
4 at least review yours? Let me start off with, I do have a
5 question, we have some follow up. Sheriff, do you still have a
6 copy of...

7 MR. STAHL: Your Honor
8 we're going to object to this, this is not a stamped copy, I
9 will note it is not signed and second it is not in the State
10 Court records, with was submitted to the habeas court and as
11 I've looked at it right now, it is not in there. I don't know
12 where that came from but we don't believe it is a full and
13 accurate copy.

14 THE COURT: Could you
15 please hand it to the bailiff? Would you please get me a copy
16 of that?

17 MS. HOWE-GEBERS: Could
18 you make me an extra copy too?

19 MR. STEPHENSON: Does
20 the Sheriff have a copy or does Sheriff have the original?

21 THE COURT: I have the
22 original.

23 MR. STEPHENSON: Your
24 Honor may we approach, may I show that document to the witness?

25 THE COURT: Yes.

1 MR. STEPHENSON: May I
2 approach the bench?

3 THE COURT: Yes.

4 MR. STEPHENSON:
5 Sheriff I'm handing you back State's Exhibit 1.

6 MR. BODENBENDER: Okay.

7 MR. STEPHENSON: I just
8 have a couple follow up questions. Would you agree that
9 document does not reference two copies or two different copied
10 interviews of the witness, Rolando Valle?

11 MR. BODENBENDER: What
12 was the question again?

13 MR. STEPHENSON: There
14 does not seem to be an indication that there are two different
15 recorded interviews of Rolando Valle, is that correct?

16 MR. BODENBENDER: I
17 know nothing about recorded conversation, other than what I
18 read here.

19 MR. STEPHENSON:
20 Sheriff we're going to play for you, for authentication
21 purposes a sample of a recording from an Officer Saneholtz, or
22 what is his title?

23 MR. STAHL: I believe
24 it is Deputy.

25 MR. STEPHENSON: Deputy

1 Saneholtz? Okay, it's marked, what is this marked?

2 MR. AIRD: This is
3 Exhibit E.

4 MR. STEPHENSON:
5 Exhibit E. This is part of what you've provided to us.

6 MR. BODENBENDER: Okay.
7 MR. STEPHENSON: I'm
8 just going to ask you about that.

9 MR. BODENBENDER: Okay.
10 MR. STEPHENSON: So
11 Sheriff we're going to play for you Exhibit E and ask you if
12 this is a true and accurate copy of what you provided to us
13 with the subpoena.

14 (PLAYING OF EXHIBIT E)

15 MR. STEPHENSON:
16 Sheriff we've just heard a segment from what is marked as a
17 thumb drive that you provided to the defense which is marked as
18 Defense Exhibit E. Is that a true and accurate representation
19 of what you provided to us?

20 MR. BODENBENDER: I've
21 never heard that, that would have been the girl who does that
22 for me.

23 MR. STEPHENSON: Okay,
24 so you've not heard the substance of it.

25 MR. BODENBENDER:

1 That's correct.

2 MR. STEPHENSON: But
3 this is the thumb drive that you provided to us regarding the
4 State of Ohio verses Cullen Parson.

5 MR. BODENBENDER: Yes.
6 MR. STEPHENSON:
7 Pursuant to our subpoena.

8 MR. BODENBENDER: Yes.
9 MR. STEPHENSON: Who
10 is, who is the sheriff that, or the sheriff deputy that was
11 doing the interview here?

12 MR. BODENBENDER: It
13 was Ross Saneholtz.

14 MR. STEPHENSON: And is
15 he a deputy or is he a lieutenant or detective?

16 MR. BODENBENDER: He's
17 a deputy.

18 MR. STEPHENSON: He's a
19 deputy?

20 MR. BODENBENDER: Yes
21 sir.

22 MR. STEPHENSON: Okay
23 and he's not on the MAN Unit right?

24 MR. BODENBENDER: No
25 sir.

1 MR. STEPHENSON: No
2 connection to the MAN Unit?

3 MR. BODENBENDER: No
4 sir.

5 MR. STEPHENSON: Okay,
6 do we have a, do we want to play the other one?

7 MR. STAHL: Yeah.

8 MR. STEPHENSON: Okay
9 so we're going to play another thumb drive that you provided to
10 us which is marked...

11 MR. STAHL: He didn't
12 provide the other one.

13 MR. STEPHENSON: Oh...

14 MR. AIRD: We're going
15 back to the Defendant D, the one from the MAN Unit.

16 MR. STEPHENSON: Oh
17 from the MAN Unit.

18 MS. HOWE-GEBERS: I'm
19 going to object to the one from the MAN Unit that they're going
20 to replay, the Sheriff has indicated that he wasn't aware of
21 anything from the MAN Unit and so I'm not sure what relevance
22 the Sheriff would be with this exhibit. We've already heard
23 it.

24 MR. STEPHENSON: If the
25 State is willing to stipulate that the, the recording from the

1 MAN Unit is not the same as the recording from his deputy then
2 I think we're good with that.

3 MR. STAHL: Yep.

4 THE COURT: That they
5 are two different recordings?

6 MR. STEPHENSON:

7 Correct.

8 MS. HOWE-GEBERS: I'm
9 willing to stipulate that the recordings are different, not any
10 content contained.

11 THE COURT: Absolutely.

12 MS. HOWE-GEBERS: But
13 the recordings are different, I'll stipulate to that, but not
14 the content.

15 MR. STEPHENSON: Okay.

16 MR. STAHL: I don't
17 know what that means.

18 MR. STEPHENSON: Well
19 she's just not stipulating to, we've already got testimony from
20 prior witnesses.

21 MR. STAHL: I mean if
22 we're talking about the content, the content is the
23 conversation...

24 MS. HOWE-GEBERS: And
25 the Judge can listen to both of them and she can make that

1 determination.

2 MR. STEPHENSON: Right,
3 right, no we get it.

4 MS. HOWE-GEBERS: I am
5 not stipulating to the content.

6 THE COURT: The State
7 is stipulating that that is two different recordings.

8 MS. HOWE-GEBERS:
9 Correct.

10 MR. STEPHENSON: Then
11 we're good.

12 MS. HOWE-GEBERS:
13 That's my stipulation.

14 MR. STEPHENSON: No
15 further questions Your Honor.

16 THE COURT: Any
17 recross?

18 MS. HOWE-GEBERS: No
19 Your Honor thank you.

20 THE COURT: Is there
21 any reason why this witness...

22 MR. STEPHENSON: Oh,
23 wait, wait, wait, hold on, I'm sorry Your Honor. Okay, we're
24 good, I apologize Your Honor.

25 THE COURT: Can Sheriff

1 be excused?

2 MR. STEPHENSON: We,
3 yes, we have no objection.

4 THE COURT: You may
5 step down.

6 MR. BODENBENDER: Thank
7 you.

8 MR. AIRD: Your Honor
9 the next witness that we'd like to call would be Jamie Jones,
10 the CCNO representative.

11 MR. STEPHENSON: Your
12 Honor, Michael Aird is going to be doing the questioning of
13 this witness.

14 THE COURT: Very good.
15 Ma'am please raise your right hand and be sworn by the bailiff.

16 BAILIFF: Do you swear
17 the testimony you are about to give is the truth, the whole
18 truth and nothing but the truth, so help you God?

19 MS. JONES: Yeah.

20 BAILIFF: Thank you.

21 THE COURT: You may be
22 seated. Mr. Aird.

23 MR. AIRD: Thank you.
24 Good morning Ms. Jones.

25 MS. JONES: Hello.

1 MR. AIRD: For the
2 record could you please state your name?

3 MS. JONES: Jamie
4 Jones.

5 MR. AIRD: And what is
6 your, what is your position right now, what is your work?

7 MS. JONES: Currently
8 I'm the Supervisor of Accreditation and Inspections, previously
9 I was the Records Clerk.

10 MR. AIRD: Okay, so
11 you're familiar with, and that's at the CCNO, the Corrections
12 Center of Northwest Ohio, correct?

13 MS. JONES: Yes.

14 MR. AIRD: Okay. So
15 you're, are you familiar with a subpoena that was submitted by
16 our defense team on about May 30 of this most recent year?

17 MS. JONES: Yes.

18 MR. AIRD: And are you
19 familiar with, we were requesting some cell records for one
20 Rolando Valle, is that your understanding?

21 MS. JONES: Yes.

22 MR. AIRD: Your Honor
23 if I may approach the witness?

24 THE COURT: Yes.

25 MR. AIRD: I'm going to

1 hand you what's marked as Defense Exhibit F, if you can take a
2 look to review that and does that, what's marked as, does that
3 look like a record, cell records of where an inmate would be
4 housed at CCNO?

5 MS. JONES: Yes.

6 MR. AIRD: Does that
7 look like a true and accurate copy of the records that were
8 submitted via the subpoena request?

9 MS. JONES: Yes.

10 MR. AIRD: Okay, great.
11 Do you have an understanding of how these, are you able to read
12 and interpret these records at all?

13 MS. JONES: Yes

14 MR. AIRD: Okay, how
15 are these records generated?

16 MS. JONES: It's in our
17 inmate records system.

18 MR. AIRD: Okay.

19 MS. JONES: So when an
20 inmate gets assigned to a cell, it's placed in the computer and
21 then once they arrive in the unit, in the cell, the officer
22 checks the box that they are in that cell.

23 MR. AIRD: So, so like,
24 for example on this, Mr. Valle, just so we understand, he
25 arrived at, if we look at the second, kind of, section, the

1 second section where it says the date and time would be 8/17
2 17:02 he arrived in the EM Unit, would that be a way to
3 describe that, he would have gotten there?

4 MS. JONES: For the
5 first line, so he arrived 8/18/2015 at 16:13, he is in intake,
6 he was in intake until 8/18/2015 17:02.

7 MR. AIRD: Okay.

8 MS. JONES: So then the
9 next time shows the time he was in EM28.

10 MR. AIRD: And so,
11 those reports, basically an officer types that in or is in
12 automatically generated somewhere else?

13 MS. JONES: The officer
14 types it in and then once they're in that unit they mark that
15 they are in that unit.

16 MR. AIRD: And there is
17 like a corrections officer that is working on the floor?

18 MS. JONES: Yes.

19 MR. AIRD: It's not
20 something that you do, it's something that they do, like
21 instant, as they're working, moving people around, is that
22 correct?

23 MS. JONES: Yes.

24 MR. AIRD: Okay. So if
25 you go down to the last line of the record here, um, it's

1 indicating 8/18/15, I'm sorry, 8/18/2015 21:46 through
2 10/1/2015 14:00 DM, can you explain, kind of what that would
3 indicate?

4 MS. JONES: That shows
5 that for that time frame he was in cell DM02.

6 MR. AIRD: And him
7 being Rolando Valle, right?

8 MS. JONES: Rolando
9 Valle, yes.

10 MR. AIRD: That's all,
11 that's all the questions we have.

12 THE COURT: Ms. Howe-
13 Gebers?

14 MS. HOWE-GEBERS: When
15 a box is not checked does that mean he was not moved? Is that
16 what that box indicates?

17 MS. JONES: I am not
18 sure on the moved section how that is reflected.

19 MS. HOWE-GEBERS: So
20 you don't know what the X, what does the X mean, do you know?

21 MS. JONES: The X, when
22 they are reclassified the officer checks that in the unit
23 showing they were moved to that unit, so when he was released
24 there is no box because he was released.

25 MS. HOWE-GEBERS: Are

1 you looking, can you look at page two? There is two pages of
2 this exhibit. There were different ones on that list also, is
3 that correct, in May of 2016?

4 MS. JONES: Mm-hmm.

5 MS. HOWE-GEBERS: Is
6 that correct?

7 MS. JONES: Yes.

8 MS. HOWE-GEBERS: Okay.

9 Same inmate, Rolando, correct?

10 MS. JONES: Yes.

11 MS. HOWE-GEBERS: Okay,
12 nothing further.

13 THE COURT: And
14 redirect?

15 MR. AIRD: Quickly,
16 quickly Your Honor. If you can just look back again at that
17 last line on the first page in 2015, so when we see 10/1/2015
18 14:00 and there is nothing in the to area cell, that would
19 indicate that he was in the DM Unit from basically those two
20 dates and times, 8/18/2015 21:46 to 10/1/2015 14:00.

21 MS. JONES: Yes.

22 MR. AIRD: He was in
23 the DM Unit, correct?

24 MS. JONES: Yes, it's
25 blank on the second because that is when he was released.

1 MR. AIRD: That is when
2 he was released after that time, so he didn't go anywhere else,
3 he just went out wherever he went.

4 MS. JONES: Yes.

5 MR. AIRD: But not in
6 your custody. That's it, that's all we have Your Honor.

7 MS. HOWE-GEBERS: Can I
8 follow up?

9 THE COURT: Yes.

10 MS. HOWE-GEBERS: So he
11 was back in custody then is what you're saying in May 2016?

12 MS. JONES: Yes, these
13 are two separate cell histories for Rolando Valle.

14 MS. HOWE-GEBERS: Okay,
15 I have nothing further.

16 THE COURT: You may
17 step down, is there a reason why this witness can't be excused.

18 MR. STAHL: No Your
19 Honor.

20 THE COURT: You may be
21 excused.

22 MS. HOWE-GEBERS: Your
23 Honor it is my understanding their next witness is going to be
24 Mr. Flanagan.

25 MR. STEPHENSON: By

1 Zoom.

2 MS. HOWE-GEBERS: Could
3 we take a five minute recess while we're doing that.

4 THE COURT: It won't
5 take long; we'll just get him up. Do you need a recess because
6 we can just bring him up.

7 MS. HOWE-GEBERS: Well,
8 after he testifies or before he testifies I do need about a
9 five minutes recess to check something.

10 THE COURT: Why don't
11 we take a five-minute recess then.

12 MS. HOWE-GEBERS: Thank
13 you.

14 (BRIEF RECESS)

15 THE COURT: We are back
16 on the record in case number 15CR0082, State of Ohio verses
17 Cullen A. Parsons. You may call your next witness.

18 MR. STEPHENSON: Your
19 Honor defense would call Attorney Hawken Flanagan.

20 THE COURT: Good
21 morning Mr. Flanagan.

22 MR. FLANAGAN: Good
23 morning Your Honor.

24 THE COURT: I'm going
25 to have you raise your right hand and be sworn by the bailiff.

1 BAILIFF: Do you swear
2 the testimony you are about to give is the truth, the whole
3 truth and nothing but the truth, so help you God?

4 MR. FLANAGAN: I do.

5 BAILIFF: Thank you.

6 THE COURT: Mr.

7 Stephenson?

8 MR. STEPHENSON: Thank
9 you. Mr. Flanagan can you state your full name for the record
10 please?

11 MR. FLANAGAN: Joseph
12 Hawken Flanagan.

13 MR. STEPHENSON: And
14 sir you are an attorney licensed to practice in the State of
15 Ohio, is that correct?

16 MR. FLANAGAN: Yes.

17 MR. STEPHENSON: And
18 you're currently employed by the Ohio Attorney General?

19 MR. FLANAGAN: Correct.

20 MR. STEPHENSON: And
21 what is your title or position with the Ohio Attorney General
22 Office?

23 MR. FLANAGAN: I'm an
24 Assistant Attorney General with the Healthcare Fraud Section.

25 MR. STEPHENSON: Okay,

1 and how long have you been with the Ohio Attorney General's
2 Office?

3 MR. FLANAGAN: Two
4 years.

5 MR. STEPHENSON: And
6 before that were you an Assistant County Prosecutor with the
7 Henry County Prosecutor's Office?

8 MR. FLANAGAN: Yes it
9 was more than two years ago but yeah.

10 MR. STEPHENSON: Okay,
11 so what years were you an Assistant County Prosecutor with the
12 Henry County Prosecutors Office if you can recall?

13 MR. FLANAGAN: It's
14 been probably seven years I would say, I don't recall the exact
15 date that I left Henry County, but probably about seven years.

16 MR. STEPHENSON: Okay,
17 in 2015 were you an Assistant County Prosecutor in Henry
18 County?

19 MR. FLANAGAN: Yeah,
20 that sounds right.

21 MR. STEPHENSON: Okay,
22 yeah, were you the prosecutor on State of Ohio verses Cullen
23 Parsons, a gun related case?

24 MR. FLANAGAN: Yes.

25 MR. STEPHENSON: And

1 you recall that case?

2 MR. FLANAGAN: Yes,
3 generally, yes.

4 MR. STEPHENSON: And
5 you've been served with a subpoena regarding that case and I
6 believe provided with certain materials?

7 MR. FLANAGAN: Yes.

8 MR. STEPHENSON: And
9 during that time Mr. Jay Hanna was the elected prosecutor for
10 Henry County, is that right?

11 MR. FLANAGAN: I think
12 so, there was a time right around that when, it may be around
13 that year where I served as the appointed prosecutor after he
14 retired, so it was right in that time frame.

15 MR. STEPHENSON: Okay.
16 Going back to the Cullen Parsons case, is it your recollection
17 that Mr. Hanna covered the preliminary hearing in that case?

18 MR. FLANAGAN: I don't
19 have any recollection of really any preliminary hearings, I'm
20 sorry.

21 MR. STEPHENSON: Okay,
22 so but it is your recollection that you are the one that
23 prosecuted the case, at trial.

24 MR. FLANAGAN: I ran
25 the trial.

1 MR. STEPHENSON: You
2 ran the trial. So were there other prosecutors involved in the
3 case besides you prior to the actual trial?

4 MR. FLANAGAN: It's
5 possible, I suspect that I would have been the primary
6 throughout, again, I don't recall the time frame for Mr.
7 Hanna's retirement so there is a chance that he was somewhat
8 involved during the investigation or the initial stages but
9 there is also a chance that it was just me.

10 MR. STEPHENSON: Was
11 there any other prosecutor besides Mr. Hanna that might have
12 been involved in the case? Like assistant or something?

13 MR. FLANAGAN: No.
14 MR. STEPHENSON: I
15 just would have been you or Mr. Hanna?

16 MR. FLANAGAN: Correct.
17 Well, I guess, I mean, there were assistants but I don't
18 believe any of them were involved in any of the felony criminal
19 work.

20 MR. STEPHENSON: Okay.
21 Mr. Hanna I want to show you some exhibits, I think you've been
22 provided these documents but I don't think they've been listed
23 or labeled as exhibits. I'm going to hold up for the camera
24 first what is labeled as Defendant's Exhibit C, which is an
25 initial report by Ben Williams dated September 18, 2015 at 8:37

1 a.m. Can you see this document?

2 THE COURT: You're
3 going to have to go up to the camera.

4 MR. STEPHENSON: And
5 the camera is that round thing and what's on the screen?

6 THE COURT: Yeah.

7 MR. STEPHENSON: Mr.
8 Hanna I'm going to approach here and, is this an accurate
9 representation of what he can see or not?

10 BAILIFF: Yes.

11 THE COURT: You've got
12 to hold it up.

13 MR. STEPHENSON: Okay.

14 MR. FLANAGAN: Sorry,
15 is that something that was sent over to me?

16 MR. STEPHENSON: It
17 should be one of the documents that was sent to you. Can we
18 get this more clear?

19 MR. FLANAGAN: I'll
20 have to pull that up and see if that's on there. I mean, I
21 wouldn't be able to authenticate a Ben Williams report or
22 anything.

23 MR. STEPHENSON: No,
24 it's already been authenticated, I'm not asking you to do that.

25 MR. FLANAGAN: Okay.

1 MR. STEPHENSON: I'm
2 just asking if you can see what it is.

3 MR. FLANAGAN: Okay,
4 one moment please, I'm just trying to check out, I'm just
5 trying to pull it up on my end so I can look at it. Yeah,
6 this, I mean I'll take your word for it that is a report from
7 somebody, but I am not able to pull up.

8 THE COURT: You're not
9 able to pull up those materials? Okay, we are going to have
10 the bailiff email you that document then.

11 MR. FLANAGAN: That's
12 fine.

13 THE COURT: Can you
14 give that to the bailiff? Are there other documents you want
15 to question him?

16 MR. STEPHENSON: Just
17 this.

18 BAILIFF: I can't email
19 a CD.

20 MR. STEPHENSON: Oh.

21 MR. STAHL: We can play
22 that.

23 MR. STEPHENSON: We can
24 play that, okay.

25 BAILIFF: This is it?

1 MR. STEPHENSON: Yeah,
2 there is just going to be one Mr. Flanagan.

3 MR. FLANAGAN: Okay.
4 For what it's worth I see this, there are a couple reports
5 attached to the email from Mr. Aird with my subpoena but the
6 subpoena seems to be the only thing that is opening up for me.

7 THE COURT: Okay, well
8 we'll have Andrea.

9 MR. FLANAGAN: Just so
10 the Court's, I mean, they did try to send me stuff.

11 THE COURT: Okay. Ms.
12 Burgel is going to send it to you now.

13 MR. FLANAGAN: Okay, I
14 am able to open it up on my phone. I should be able to
15 converse about it.

16 THE COURT: So do you
17 see the document that's been marked Defendant's Exhibit C?

18 MR. FLANAGAN: Is that
19 the initial report by Ben Williams dated September 18, 2015.

20 MR. STEPHENSON: Yes.

21 THE COURT: Is that the
22 correct document?

23 MR. FLANAGAN: Okay,
24 yes, I am able to look at that.

25 MR. STEPHENSON: Is it

1 correct that you had not seen that at the time of the original
2 Cullen Parsons trial?

3 MR. FLANAGAN: I don't
4 recall seeing this, I mean it was a long time ago, I mean, I
5 don't recall.

6 MR. STEPHENSON: Do you
7 acknowledge, had you seen it you would have had an obligation
8 to turn it over to the defense?

9 MR. FLANAGAN: Yes.

10 MR. STEPHENSON: Next,
11 we're going to play for you a recording? How are we going to
12 do that?

13 MR. STAHL: We can use
14 the thumb drive.

15 MR. AIRD: Just use the
16 transcripts.

17 MR. STEPHENSON: Your
18 Honor we ran into a little bit of technical difficult because
19 we can't really play the recording I think while he is on Zoom
20 so I'm just going to ask him some questions.

21 THE COURT: Okay.

22 MR. STEPHENSON: Mr.
23 Flanagan you do have a transcript in front of you that we had
24 sent you and it is a transcript of a recording that we have
25 marked as Defendant's Exhibit D.

1 MR. FLANAGAN: Okay.

2 MR. STEPHENSON:

3 Regarding that transcript, okay, it's thumb drive D but we sent
4 him a transcript of the contents of thumb drive D that we are
5 going to ask him some questions about.

6 MS. HOWE-GEBERS: D is
7 the interview with what?

8 MR. STEPHENSON: D is
9 the interview between Valle and Williams. Mr. Flanagan do you
10 have that transcript in front of you?

11 MR. FLANAGAN: Yes, I
12 mean I have a portion of it anyway.

13 MR. STEPHENSON: Okay
14 when you acknowledged that you had not seen that at the time of
15 trial of State of Ohio verses Cullen Parsons in Henry County
16 that you prosecuted?

17 MR. FLANAGAN: The
18 transcript?

19 MR. STEPHENSON: Or
20 that conversation, you were not aware of that conversation at
21 the time of the trial?

22 MR. FLANAGAN: I was
23 aware that Mr. Valle had spoken with someone at the jail and
24 shared with them that he had information about Mr. Parsons and
25 that was conveyed to someone at the sheriff's office and then

1 one of our deputies, I believe, went out and spoke with him.

2 MR. STEPHENSON: But
3 you were not aware of the content of that at the time of the
4 trial, correct?

5 MR. FLANAGAN: I would
6 have been, nothing more than what I just said, that he had
7 provided or told the, I think at the time I probably assumed it
8 was a corrections officer that he had relayed the he had
9 information about the case.

10 MR. STEPHENSON: Okay
11 and you would acknowledge that had you been aware of the
12 content of that conversation you would have had an ethical
13 obligation and an obligation under Criminal Rule 16 to turn
14 that information over to the defense, right?

15 MR. FLANAGAN: Sure,
16 yeah.

17 MR. STEPHENSON: Yeah.
18 Oh, okay, are you aware of where that conversation took place,
19 I think you said you were kind of speculating or guessing where
20 it happened, but would it be fair to say you were not aware of
21 where it actually took place?

22 MR. FLANAGAN: That's
23 fair to say.

24 MR. STEPHENSON: And
25 you were not aware, so therefore you were not aware that it

1 took place at the Defiance County Courthouse, correct?

2 MR. FLANAGAN: That's
3 fair to say, I mean, I'll say that's my recollection, I guess,
4 you know, it's was certainly some time ago.

5 MR. STEPHENSON: Okay
6 and just for the record I've got a couple of final questions
7 and I'm not trying to be smart aleck or anything like that,
8 just want to make a clear record.

9 MR. FLANAGAN: That's
10 fine.

11 MR. STEPHENSON: You
12 were not operating as a Defiance County Special Prosecutor or
13 anything like that at this time?

14 MR. FLANAGAN: No.

15 MR. STEPHENSON: You
16 were the Assistant Prosecutor and then the interim prosecutor
17 for Henry County at that time?

18 MR. FLANAGAN: Correct.

19 MR. STEPHENSON: Oh
20 okay, okay, do you recall a motion from defense attorney Zaner
21 in the Cullen Parsons case asking for any specific information
22 you had regarding any statements made by Mr. Valle to law
23 enforcement or any deals cut by Mr. Valle with law enforcement?

24 MR. FLANAGAN: I don't
25 have any recollection of that yes or no, I mean, he could have

1 sent it or not.

2 MR. STEPHENSON: Okay,
3 okay, but all the other things you have testified to are
4 accurate representations of your recollection correct?

5 MR. FLANAGAN: I
6 believe so.

7 MR. STEPHENSON: Oh
8 sure, is that the last? Okay, so I've got, we've got, actual
9 Your Honor, could I have permission to allow co-counsel to ask
10 three successive questions?

11 THE COURT: Yes.

12 MR. STEPHENSON:
13 Alright, go ahead.

14 MR. STAHL: Mr.
15 Flanagan, so there was a motion filed in the record, it is my
16 understanding that was fairly specific about any sort of prior
17 statements of Mr. Valle, any sort of negotiations that went
18 forth, I don't believe there was any response to that and I
19 actually don't, it doesn't appear that the Court actually ruled
20 on that motion and I understand you don't really recall that,
21 would it have been your general practice if you had such a
22 motion to make some further inquiry, find out where the
23 statements came from being the prosecutor?

24 MS. HOWE-GEBERS: Your
25 Honor, I'm sorry to interrupt but I'm going to object, I don't

1 understand, I'm not clear as to what time frame we are talking
2 about, when this motion was filed, I have not seen.

3 THE COURT: Can you
4 break that down a little bit so we can be more specific?

5 MR. STAHL: Certainly.

6 THE COURT: Because I
7 don't have the entire file in front of me either.

8 MR. STAHL: Certainly
9 Your Honor, so there was a motion filed in the Court, it is
10 stamped February 4, 2016, it is a motion filed by Lorin Zaner,
11 defense attorney in the case, that motion is a Motion to
12 Disclose Information Regarding Cooperative Witnesses and
13 Informants. The content of the motion in which, again, this
14 Court stamped motion is part of the record here, the content of
15 the motion is specifically about Rolando Valle and any sort of
16 negotiations he entered into with the sheriff department, Henry
17 County Prosecutors Office, specifically and including prior
18 statements. It doesn't look like there was any response to
19 that in the record and my understanding from your testimony is
20 you don't recall that?

21 MR. FLANAGAN: I just
22 don't know that I would refer to him as a cooperating witness,
23 I mean, he, there was not any kind of a discussions of that
24 nature, he wasn't treated as an informant or some sort of, I
25 guess, cooperating witness. I think, I mean, my recollection

1 is that we barely even got him to the courtroom to testify and
2 his testimony was pretty worthless, honestly, so, if that was a
3 motion seeking information on any deals or things of that
4 nature, I mean there wouldn't have been a response.

5 MR. STAHL: Okay, so
6 the next question would be, that motion referenced *Brady vs.*
7 *Maryland* a Supreme Court case from 1963, are you familiar with
8 that case, generally?

9 MR. FLANAGAN: I'm
10 familiar with people referencing it in court.

11 MR. STAHL: It puts, it
12 puts an obligation on the prosecutors to turn over exculpatory
13 evidence whether there was a request for it or not, that fair
14 enough?

15 MR. FLANAGAN: Okay,
16 that's fair.

17 MR. STAHL: Okay, and
18 next question in Mr. Valle's testimony I would kind of agree
19 with you, it seems like you were somewhat surprised by the
20 content of his testimony and what was going on, it did sound
21 you reflected, that fair to say?

22 MR. FLANAGAN: My
23 recollection is that, at least my understanding was his
24 testimony would be more along the lines of Cullen Parsons said
25 that he committed this crime and the actual testimony was just

1 that Cullen Parsons told me this is what he's charged with.

2 MR. STAHL: Understood,
3 and when he testified, he testified that this conversation took
4 place in a group, do you recall that?

5 MR. FLANAGAN: In a
6 group setting? Is that what you're saying?

7 MR. STAHL: Yes, yes.

8 MR. FLANAGAN: I, so I
9 looked at the, the partial trial transcript that was provided
10 to me and so I'll base my response on that, I don't have an
11 individual recollection of the trial, but yeah, I think that is
12 accurate as to what he testified to.

13 MR. STAHL: Okay and in
14 a situation like that, as a prosecutor, and speaking in this
15 case specifically but also just generally, if a witness
16 testifies that way and you have some knowledge that they've
17 given a prior inconsistent statement, such as Mr. Valle saying
18 something to the effect that this was a one-on-one conversation
19 or it took place between just him and Mr. Parsons, would that
20 be an issue of concern to you?

21 MR. FLANAGAN: I mean,
22 to, I don't know if the group or individual conversation
23 probably has too much significance as what at the time what
24 Cullen said, doesn't really matter if it was in a group or
25 between the two of them for me.

1 MR. STAHL: And would
2 that conversation matter if in fact Mr. Parsons and Mr. Valle
3 were not in the same cell unit at the time that Mr. Valle
4 claimed the conversation took place? Meaning, they are not in
5 the same part of the building.

6 MR. FLANAGAN: I mean,
7 if they, I am not sure I understand what you are saying, would
8 it be important if they couldn't have physically had a
9 conversation?

10 MR. STAHL: Correct.

11 MR. FLANAGAN: Sure.

12 MR. STAHL: And then I
13 would say it is safe to say that you did not have possession of
14 records, cell assignment records from CCNO that would indicate
15 that at the time that Rolando Valle said that this statement
16 took place, which he told Officer Saneholtz, Deputy Saneholtz
17 and Deputy Saneholtz testified that this took place a week
18 prior to this September 18 conversation, it would be
19 significant that Mr. Valle was in the DM unit and Mr. Parsons
20 was I believe in a separate unit, the B unit, I believe it was.
21 That would be a significant part of the conversation would it
22 not? Subject as you know, as far credibility.

23 MR. FLANAGAN: I mean,
24 I guess that is, I don't know if that's a rhetorical question
25 or not, I mean, is it important if they were not physically

1 able to have the conversation he said they had, sure.

2 MR. STAHL: Alright, if
3 you would have had information to that effect about a witness,
4 this witness or any witness, as you're preparing to call
5 witnesses as a prosecutor, as you're preparing a case, and you
6 have conflicting testimony like that, aside from the Brady
7 issues, aside from any concerns about turning anything over to
8 the defense, you're particular ethical view of eliciting
9 testimony from a witness when there is such a concern, would
10 you go forward with it?

11 MR. FLANAGAN: So I
12 didn't have any conflicting testimony from Mr. Valle until the
13 trial and as far as the cell block information, I mean, I
14 didn't have that, so I don't, I don't know if anyone was even
15 aware of that issue, so I don't know. There was no, as far as
16 I was aware, there was no inconsistent or problematic
17 information from Mr. Valle until he took the stand and was not
18 providing answers that were consistent with my understanding of
19 his expected testimony.

20 MR. STAHL: That's fair
21 enough, I think that answers my question. I believe that is
22 all I have for you Mr. Flanagan. Thank you.

23 MR. FLANAGAN: Thank
24 you.

25 THE COURT: Ms. Howe-

1 Gebers?

2 MS. HOWE-GEBERS: Mr.
3 Flanagan, so in providing discovery to Mr. Zaner, in your file,
4 and I've marked as State's Exhibit 1, okay.

5 MR. FLANGAN: Okay.

6 MS. HOWE-GEBERS: And
7 at the very top it says copy.

8 MR. FLANAGAN: Okay.

9 MS. HOWE-GEBERS: And
10 at the bottom is that your name? Can you see that?

11 MR. FLANAGAN: I don't,
12 I wish I could, so, yeah, I mean, I would be the one signing
13 off any responses.

14 THE COURT: Can we send
15 that too? Are there any other documents?

16 MS. HOWE-GEBERS: This
17 is it Your Honor.

18 MR. FLANAGAN: I got
19 the email I'm just pulling up the attachments here. Okay.

20 MS. HOWE-GEBERS:
21 Alright, so Mr. Flanagan on the last page of that exhibit it is
22 a response to discovery, is that correct?

23 MR. FLANAGAN: Yes.

24 MS. HOWE-GEBERS: And
25 it's dated March 4, 2016, correct?

1 MR. FLANAGAN: Yes as
2 far as the service date.

3 MS. HOWE-GEBERS: Okay,
4 and on page one, if you can go back to page one.

5 MR. FLANAGAN: Yes.

6 MS. HOWE-GEBERS: It's
7 indicating that's a copy, is that correct?

8 MR. FLANAGAN: Correct.

9 MS. HOWE-GEBERS: So
10 the original would have gone to Mr. Zaner, correct?

11 MR. FLANAGAN: Correct.

12 MS. HOWE-GEBERS: With
13 your signature.

14 MR. FLANAGAN: Correct.

15 MS. HOWE-GEBERS: If
16 you would look under, on page two under 16(B) (7).

17 MR. FLANAGAN: Yes.

18 MS. HOWE-GEBERS: You
19 indicate that recorded statements attributed to, and I'll just
20 read one of them, Rolando Valle, was provided to defense
21 counsel, correct?

22 MR. FLANAGAN: Okay,
23 yes.

24 MS. HOWE-GEBERS: So
25 that statement from Deputy Saneholtz and others would have been

1 given to Mr. Zaner correct?

2 MR. FLANAGAN: Yeah,
3 yeah, I believe Ross Saneholtz was the Sheriff's Deputy who was
4 tasked with the primary responsibility on their end for the
5 case and my recollection is that he spoke with Mr. Valle after,
6 I guess, we received information, that he had information.

7 MS. HOWE-GEBERS: Okay.
8 And again, the information that you had received after Deputy
9 Saneholtz interviewed him was different at the time he
10 testified, is that correct?

11 MR. FLANAGAN: That's
12 correct, his testimony was not in line with the information
13 gathered by Deputy Saneholtz, that's my recollection.

14 MS. HOWE-GEBERS: Okay,
15 and at trial Mr. Valle indicated it was within a group
16 somewhere at CCNO, is that correct?

17 MR. FLANAGAN: Yes.

18 MS. HOWE-GEBERS: And
19 as to any deals or reductions, well let me back up, Mr. Valle,
20 you were not prosecuting Mr. Valle here in Henry County for
21 anything correct?

22 MR. FLANAGAN: That is
23 correct.

24 MS. HOWE-GEBERS: And
25 any, were there any deals given to Mr. Valle for his Defiance

1 County case by you?

2 MR. FLANAGAN: No.

3 MS. HOWE-GEBERS: Were
4 there any promises made by you to Mr. Valle to testify?

5 MR. FLANAGAN: No.

6 MS. HOWE-GEBERS: I
7 have nothing further.

8 THE COURT: Any
9 redirect?

10 MR. STAHL: Just a
11 couple questions Your Honor. That section that Madam
12 Prosecutor referred to, that lists a number of recorded
13 statements, it, what you were responding to is the statement
14 that Ross Saneholtz gave to you correct? And to your knowledge
15 you didn't have possession of any prior recorded statement of
16 Rolando Valle and didn't even know the fact that he was
17 interviewed by law enforcement that had anything to do with
18 Cullen Parsons, correct?

19 MR. FLANAGAN: The
20 discovery response, it's my belief includes the recording of
21 Deputy Saneholtz' s interview with Mr. Valle, not the task
22 force interview and then I was aware that he had spoken with
23 law enforcement I think my impression was that he had spoken
24 with essentially a correctios officer so I don't want to say,
25 but at any rate I don't think that I was, I surely don't have

1 any recollection of being aware that he had had any kind of
2 lengthy interview or anything about Mr. Parsons specifically.

3 MR. STAHL: And nothing
4 with the MAN Unit specifically, correct?

5 MR. FLANAGAN: Can you
6 say that again, I'm sorry.

7 MR. STAHL: You weren't
8 aware that there was an interview with the MAN Unit and the
9 Defiance County Prosecutor, correct?

10 MR. FLANAGAN: I am
11 now, yeah.

12 MR. STAHL: You were
13 not at the time of the trial aware of that correct?

14 MR. FLANAGAN: So, I
15 mean, no, I mean, I guess he had drug charges so it wouldn't
16 surprise me that he spoke with them but as far as the, as far
17 as the information about Mr. Parsons no I wasn't aware of the
18 content of that conversation or anything like that.

19 MR. STAHL: Okay, and
20 one, a couple more, just a couple more questions quickly and
21 then we'll get you back to your busy schedule. So the, your
22 predecessor at the Henry County Prosecutors Office, if I
23 understood the chronology right, I believe Mr. Hanna retired
24 and I think you became the interim or appointed prosecutor for
25 a short period of time and somewhere in this whole mix before

1 the trial Mr. Hanna was prosecutor for a long time and you were
2 an Assistant Prosecutor with him for at least a period of time
3 before he retired correct?

4 MR. FLANAGAN: Correct.

5 MR. STAHL: And would
6 you say there is a good working relationship between the
7 Defiance County Prosecutor's Office and the Henry County
8 Prosecutor's Office at that time?

9 MR. FLANAGAN: There
10 were no issues that I was aware of, yeah.

11 MR. STAHL: And I guess
12 what I'm getting at is, you know, if you get information for
13 something that is going to involve a case in Defiance County
14 you would pass it along to their office, they would pass it
15 along to your office and you know, we're not necessarily
16 talking about everything is documented in writing and
17 everything, there is a lot of handshake deals that go on with
18 this and here you should look at this sort of thing? Would
19 that be a fair way of describing the interactions?

20 MR. FLANAGAN: That,
21 that's, I think a fair way to describe the interaction of any
22 prosecutor's office with another prosecutor's office.

23 MR. STAHL: So, you
24 know, if you were to, when you were acting as prosecutor, you
25 would get some information say in Defiance County or any other

1 county, especially neighboring counties, you're going to
2 provide that information to the other prosecutors office,
3 correct? Or at least to law enforcement there, somewhere
4 right?

5 MR. FLANAGAN: I mean,
6 if I was in possession or if law enforcement in Henry County
7 and had, you know, incriminating evidence against somebody I
8 would, of course it would get relayed to whoever needs it,
9 that's just, yeah, of course.

10 MR. STAHL: Okay and
11 all of that, you know, if you're, for instance if we're dealing
12 with somewhere where we're trying to get information from a
13 particular witness and there is a plea negotiation going on,
14 that sort of information may not have a specific, may not have
15 a specific consideration involved, however, that sort of
16 cooperation would be helpful, correct? Fair to say?

17 MR. FLANAGAN: I'm not
18 sure I followed that question.

19 MR. STAHL: Well,
20 alright, let me try to rephrase that. If you have a witness
21 when you were acting as prosecutor back at this time and let's
22 say it's a drug case, let's say we used the Valle situation,
23 let's say that took place in Henry County...

24 MR. FLANAGAN: Okay.

25 MR. STAHL: And he had

1 information in Defiance County and you're working out a plea
2 deal with him, okay, and if he provides some information that
3 is going to be helpful to the other county, that's going to
4 impact your willingness to consider a plea deal for him
5 correct? The more he is helpful the more he is going to do,
6 sort of like what we heard in the testimony which you see in
7 the transcript, correct?

8 MR. FLANAGAN: I
9 suppose. I mean, it's, I guess, in that regard it wouldn't be
10 any different than, you know, someone who is performing
11 community service and wants to get credit for being a good
12 member of society, I mean, if they testify and help a
13 prosecution I'm sure that they're going to want to bring that
14 up and say, I'm a good guy.

15 MR. STAHL: It helps,
16 in other words, right?

17 MR. FLANAGAN: Well...
18 MR. STAHL: It's not
19 going to hurt in any way.

20 MR. FLANAGAN: I mean,
21 if I was his attorney I'd pitch it.

22 MR. STAHL: Sure, and I
23 think his attorney may have actually so, and just one more line
24 of questions here, just a couple question, um, now the
25 prosecutor asked you about this and you've testified that you

1 weren't aware of the MAN Unit's involvement at the time of
2 trial, do you recall, and I believe we sent you this section of
3 the transcript where Deputy Saneholtz testified, do you recall
4 him testifying that he actually received this information,
5 initially he testified it came from Nick Pieracini of the, that
6 was the MAN Unit liaison, and then he said that it was Arlen
7 Cohrs, which is actually what is reflected in the police
8 report, do you recall that testimony?

9 MR. FLANAGAN: No I
10 guess I don't recall that testimony but if the information was
11 relayed to him by Nick Pieracini I think he was, I think task,
12 or assigned to the task force at that time.

13 MR. STAHL: Sure, well
14 I think it was pretty, pretty brief conversation about it, it
15 was on cross examination by Mr. Zaner and he initialed said
16 Pieracini and then he said it came from Arlen Cohrs but he did
17 say that it was transmitted from the MAN Unit.

18 MR. FLANAGAN: Okay.

19 MR. STAHL: And my
20 question is, following that testimony, I think maybe you just
21 missed it, did you make any inquiries of Deputy Saneholtz
22 whether there were any other statements?

23 MR. FLANAGAN: I don't
24 have a recollection of that other than I think that the
25 conversation would have been if he told me that he received

1 information that this guy had information, you know, the
2 directive was, well go talk to him and see what he has to say.

3 MR. STAHL: Okay and
4 you're anticipation, when you acted as prosecutor and this is
5 probably still true as Assistant Attorney General, you know,
6 law enforcement, you know, if you have jurisdiction over a
7 case, they have an obligation to make sure that you have
8 everything, right? You know, anything that is relevant to the
9 case they should be turning over to you?

10 MR. FLANAGAN: You're,
11 I'm having a tough time kind of, I guess maybe hearing you a
12 little bit so I'm not sure I'm getting my question.

13 MR. STAHL: Well, in
14 your position as prosecutor, when you're dealing with law
15 enforcement, you have an expectation that if they have
16 previously statements like this, if they have any kind of
17 evidence, that they're going to be giving you a full and
18 complete representation of the evidence, correct?

19 MR. FLANAGAN: I mean,
20 yeah, I don't think that they would, yes.

21 MR. STAHL: Alright,
22 thank you Mr. Flanagan I don't have anything further for you.

23 THE COURT: Any
24 recross?

25 MS. HOWE-GEBERS: You

1 would have no reason to believe that they would purposely, that
2 law enforcement would purposely withhold anything from you,
3 correct?

4 MR. FLANAGAN: No, no,
5 I mean, if I guess in this instance I'm sure that, yeah, it was
6 the content of the testimony or the statement that Deputy
7 Saneholtz gathered seems to be in line with what Mr. Valle told
8 the, as to both detectives so I don't know that there would be
9 any reason to hold one back from the other.

10 MS. HOWE-GEBERS: Thank
11 you, nothing further.

12 THE COURT: Any
13 redirect?

14 MR. STAHL: The um,
15 just one question Your Honor, the statement that came from the
16 MAN Unit that we spoke earlier about, that was a conversation
17 that was one on one and the statement from Deputy Saneholtz,
18 the recording there does not indicate anything about that, but
19 the trial testimony was opposite of that, would you agree with
20 all that? The, you know, there wasn't really anything about
21 whether it was one on one in the Saneholtz interview.

22 MR. FLANAGAN: I
23 couldn't, I couldn't say that for certain.

24 MR. STAHL: Okay.

25 MR. FLANAGAN: I just

1 don't have a specific recollection of that.

2 MR. STAHL: Fair
3 enough, fair enough, thank you Mr. Flanagan.

4 THE COURT: Anything
5 further Ms. Howe-Gebers?

6 MS. HOWE-GEBERS: No
7 Your Honor.

8 THE COURT: Can this
9 witness be excused?

10 MR. STAHL: Your Honor
11 I believe that would complete our presentation of evidence.

12 MR. STEPHENSON: Yeah,
13 we're excusing the witness.

14 THE COURT: Okay,
15 alright, thank you Mr. Flanagan, you're excused.

16 MR. FLANAGAN: Thank
17 you.

18 THE COURT: Do you have
19 any other witnesses then?

20 MR. STEPHENSON: No
21 Your Honor.

22 THE COURT: Does the
23 State have any evidence or witnesses?

24 MS. HOWE-GEBERS: We
25 have Mr. Sondergaard.

1 THE COURT: Okay.

2 MS. HOWE-GEBERS: And
3 he is downstairs.

4 MR. STEPHENSON: When
5 does the Court want us to present our exhibits and move for
6 their admission, do you want to wait until the end of all the
7 testimony or at the end of ours?

11 MS. HOWE-GEBERS: He's
12 down in my conference room, Judge, I didn't know how long they
13 were going to be or who all they were calling. (Ms. Howe-
14 Gebers on phone) Can you have Mr. Sondergaard come up please?
15 Alright, thanks bye.

16 MR. STAHL: Your Honor,
17 for the record, we are going to object to this witness because
18 of relevance grounds. The issue before the Court is whether
19 the evidence that we've just elicited is newly discovered or
20 not. If there is a question about what happened inside of
21 that, those are separate questions that should take place in
22 the actual new trial motion. I, you know, we're going to
23 object for the record, if she believes there is something that
24 should be relevant

25 THE COURT: Can you

1 give a summary of what you expect this witness will testify to?

2 MS. HOWE-GEBERS: Your
3 Honor part of the motion that they have filed was that no one
4 was aware that there was some offer or reduction made to Mr.
5 Valle for his testimony. Mr. Sondergaard is going to address
6 that. Now today they've focused a lot different than what
7 their motion has so, I was prepared to address part of their
8 motion, not what today was.

9 THE COURT: I'm going
10 to allow the witness.

11 MS. HOWE-GEBERS: Thank
12 you.

13 MR. STAHL: That's
14 fine.

15 MS. HOWE-GEBERS: So
16 you are not having Rolando? You've released him?

17 MR. STAHL: We'll wait
18 until this witness is finished.

19 THE COURT: Sir can you
20 please come to the witness stand, raise your right hand and be
21 sworn by the bailiff?

22 BAILIFF: Do you swear
23 the testimony you are about to give is the truth, the whole
24 truth and nothing but the truth, so help you God?

25 MR. SONDERGAARD: Yes.

1 BAILIFF: Thank you.
2
3 THE COURT: You may be
4 seated. Ms. Howe-Gebers?

5 MS. HOWE-GEBERS: Thank
6 you. Would you, for the record, introduce yourself please?

7 MR. SONDERGAARD: My
8 name is Steven Sondergaard, S-O-N-D-E-R-G-A-A-R-D, and I'm an
9 attorney from Defiance, Ohio.

10 MS. HOWE-GEBERS: Okay
11 and back in 2015 you were either retained or appointed to
12 represent a Rolando Valle, is that correct?

13 MR. SONDERGAARD:
14 Correct, I was appointed.

15 MS. HOWE-GEBERS: And
16 that was in Defiance County?

17 MR. SONDERGAARD:
18 Correct.

19 MS. HOWE-GEBERS: At
20 that point he was facing an engaging case and a number of drug
21 trafficking charges, is that correct?

22 MR. SONDERGAARD:
23 Correct.

24 MS. HOWE-GEBERS: And
25 at some point did you have an opportunity to be present for an
interview with Mr. Valle concerning a Henry County Case of Mr.

1 Parsons.

2 MR. SONDERGAARD: I
3 don't recall that.

4 MS. HOWE-GEBERS: Okay,
5 you were present during an interview concerning any co-
6 defendants in his case in Defiance County, correct?

7 MR. SONDERGAARD:
8 Correct.

9 MS. HOWE-GEBERS: As a
10 result of that interview were there any discussions that, as to
11 any deals or consideration by Henry County for any cooperation?

12 MR. SONDERGAARD: I
13 recall none of that.

14 MS. HOWE-GEBERS: And
15 was there any offer made by, Morris Murray was the prosecutor
16 at the time, is that correct?

17 MR. SONDERGAARD:
18 Correct.

19 MS. HOWE-GEBERS: Was
20 there any offer made by Mr. Murray as to any cooperation with
21 the Defiance County case/

22 MR. SONDERGAARD: No
23 set parameters.

24 MS. HOWE-GEBERS: Okay.
25 And is that standard? Basically listen to what they say and

1 decide afterwards?

2
3 MR. SONDERGAARD: The
4 way I always explain it to clients, it's always the nature and
5 quality of the work that they do, it'll be judged later on as
to any type of negotiations.

6 MS. HOWE-GEBERS: So at
7 the outset there is no set agreement, is that correct?

8 MR. SONDERGAARD:
9 Correct.

10 MS. HOWE-GEBERS: Okay,
11 nothing further.

12 THE COURT: Any cross?
13
14 MR. STAHL: Yes Your
15 Honor. Mr. Sondergaard just a couple questions, I believe it
is Valle, is that the proper pronunciation?

16 MR. SONDERGAARD:
17 Valle.

18 MR. STAHL: I believe
19 Mr. Valle called you prior to his testimony in the Cullen
20 Parsons trial, do you recall that?

21 MR. SONDERGAARD: I do
22 not recall that at all.

23 MR. STAHL: Okay do you
24 recall him talking to you about his testimony regarding Cullen
25 Parsons?

1 MR. SONDERGAARD: No
2 sir.

3 MR. STAHL: Do you
4 recall the conversation with Defiance County Prosecutor and I
5 believe there was also Officer Williams of the MAN Unit?

6 MR. SONDERGAARD: There
7 was a meeting, there was a pretrial and then that pretrial
8 moved to another room of which they discussed Mr. Valle's
9 cooperation with them.

10 MR. STAHL: And this
11 was in the Defiance County Courthouse?

12 MR. SONDERGAARD:
13 Correct.

14 MR. STAHL: And then
15 following that, sometime not long after that I believe Mr.
16 Valle was, his bond was changed to a, I believe it was a
17 recognizance bond, he was released somehow or another.

18 MR. SONDERGAARD: I
19 believe so.

20 MR. STAHL: Do you
21 recall in that conversation with Prosecutor Murray and Officer
22 Williams and Mr. Valle, do you recall when Cullen Parsons case
23 came up? I believe it was towards the end of that
24 conversation.

25 MR. SONDERGAARD: I

1 don't recall it.

2 MR. STAHL: Do you
3 remember having any conversation with Mr. Valle about that at
4 all?

5 MR. SONDERGAARD: No
6 sir.

7 MR. STAHL: I don't
8 believe I have any other questions for you. Thank you sir.

9 THE COURT: Anything
10 else?

11 MS. HOWE-GEBERS: Yes.
12 So Mr. Valle was released because again of his agreement to see
13 what he could or could not do for Defiance County, is that
14 correct?

15 MR. SONDERGAARD: I
16 believe that was part of it.

17 MS. HOWE-GEBERS: Okay,
18 nothing further.

19 THE COURT: And
20 recross?

21 MR. STAHL: I don't
22 believe so.

23 THE COURT: Is there
24 any reason why this witness can't be excused?

25 MS. HOWE-GEBERS: No

1 Your Honor.

2 THE COURT: Sir you may
3 step down, you're excused.

4 MR. SONDERGAARD: Okay,
5 thank you.

6 THE COURT: Ms. Howe-
7 Gebers do you have any further witnesses?

8 MS. HOWE-GEBERS: No
9 Your Honor.

10 THE COURT: Do you have
11 any other evidence you wish to present?

12 MS. HOWE-GEBERS: No,
13 we would just ask to admit Exhibit 1.

14 THE COURT: Let's deal
15 with the exhibits. Can I have all of the exhibits from both
16 the defense and the prosecutor?

17 MR. STAHL: And Your
18 Honor if I may I'll go and tell Mr. Valle he can be excused.

19 THE COURT: Okay.
20 Thank you. Okay, so regarding Exhibit, Defendant's Exhibit A,
21 the envelope, is there any objection from the State to its
22 admission?

23 MS. HOWE-GEBERS: There
24 is no objection, I don't know the relevance of it, but there is
25 no objection.

1 THE COURT: Exhibit B
2 is a DVD I understand of the conversation with Rolando Valle
3 and the MAN Unit, is there any objection to that admission?
4 MS. HOWE-GEBERS: No
5 objection.

6 THE COURT: Exhibit C
7
8 is the, has captioned at the top MAN Unit Initial Report by Ben
9 Williams, is there any objection to that admission?
10
11 MS. HOWE-GEBERS: No
12
13 objection.

11 THE COURT: And then
12 thumb drive Exhibit D, what was that again?

13 MR. STAHL: Your Honor
14 I believe that is actually a duplicate of the conversation with
15 the MAN Unit.

16 THE COURT: Of that CD?

17 MR. STEPHENSON: Yes.

18 THE COURT: We won't

19 admit, just for clarification, we will not admit it since we

20 are admitting the CD. Thank you.

21 MR. STAHL: That was
22 for us to have a copy Your Honor.

23 THE COURT: Then
24 Exhibit E is another thumb drive.

25 MR. STEPHENSON: That's

1 different, that's Saneholtz.

2 THE COURT: That's the
3 interview with Deputy Saneholtz that took, with Rolando Valle,
4 that's what I have.

5 MR. STAHL: I believe
6 that is correct Your Honor.

7 THE COURT: Is there
8 any objection to Exhibit E?

9 MS. HOWE-GEBERS: No
10 objection.

11 THE COURT: Exhibit F
12 is a, the cell history, is there any objection?

13 MS. HOWE-GEBERS: Your
14 Honor I don't know about an objection but I don't know that it
15 is relevant. We don't have anything from Mr. Parsons where he
16 was at, so I guess I don't understand the relevance of that,
17 they've made mention to try to say they weren't together but we
18 have nothing to refute that, all we have is where Rolando was.
19 We all know Rolando was incarcerated, I don't see the relevance
20 as to the location given the fact we have nothing else to go
21 with that, so at this point we would be objecting to F.

22 MR. STEPHENSON: Your
23 Honor I have just an initial thing but Mr. Stahl is going to
24 respond to the substance of it. But for admission sake the
25 burden has been met, it's authenticated, it's accurate, I think

1 the prosecutions objection with relevancy goes more to the
2 credibility which is not an admission issue. The Court should
3 review it for whatever worth the Court deems it to be worthy
4 of.

5 THE COURT: I believe
6 it's admissible, the probative value may or may not be there
7 but it is an admissible document.

8 MR. STEPHENSON:
9 Correct, that's the correct evidentiary...

10 THE COURT: Defendant's
11 Exhibit G, the report from the Henry County Sheriff's Office,
12 is there any objection to that admission?

13 MS. HOWE-GEBERS: No
14 objection.

15 THE COURT: Then we
16 have State's Exhibit 1, is there any objection to that
17 admission?

18 MR. STAHL: Your Honor
19 at this time we are not going to object to that.

20 THE COURT: Okay,
21 State's Exhibit 1 will be admitted into evidence. Instead of
22 hearing oral closing arguments I am going to allow both parties
23 to submit written closing arguments and any memorandums of law
24 they wish to submit. I will give consideration to all of your
25 schedules, how long do you think you would need to submit

1 those, they will be submitted simultaneously.

2 MR. STAHL: Your Honor
3 I suspect that probably we would both want to have the
4 transcript made available, I'm not sure how long that would be.

5 THE COURT: A
6 transcript of this hearing?

7 MR. STAHL: Of this
8 hearing yes.

9 THE COURT: Before you
10 submit your written statements?

11 MR. STAHL: That's what
12 I would request.

13 MS. HOWE-GEBERS: The
14 State would not need that but we'll leave that to the defense.

15 MR. STAHL: That would
16 be what I would request.

17 THE COURT: How long
18 after the receipt of the transcript would be necessary?

19 MR. STAHL: A couple
20 weeks maybe?

21 THE COURT: Okay, we'll
22 have written closing arguments and any memorandums of law
23 submitted simultaneously three weeks after the transcript is
24 sent to the defendant. You will be notified when that
25 transcript is sent.

1 MS. HOWE-GEBERS:

2 That's fine.

3 MR. STAHL: We'll

4 provide a copy.

5 THE COURT: Okay,

6 alright, is there anything further?

7 MS. HOWE-GEBERS: No

8 Your Honor.

9 MR. STEPHENSON: No

10 Your Honor, thank you.

11 MR. STAHL: Thank you

12 Your Honor.

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IN THE COURT OF COMMON PLEAS OF HENRY COUNTY, OHIO

STATE OF OHIO, * Case No. 15CR0082

Plaintiff,

* Case No. 15CR0082

-VS-

CERTIFICATION OF TRANSCRIPT

CULLEN A. PARSONS,

*

Defendant.

*

— — — — — —

I, Andrea M. Burgel, Official Court Reporter for the

Common Pleas Court of Henry County, Ohio, duly appointed

therein, do hereby certify that the foregoing, consisting of 96 pages, is a true and complete transcript, from the original digital recording, as transcribed by me of the proceedings conducted in that court on the 20th day of July, 2023, before the Honorable Amy C. Rosebrook, Judge of said Court, and I do further certify that I was personally present in the courtroom during all of the said proceedings.

Subscribed this 28th day of July, 2023.

Andrea M. Burgel
Notary Public in and for the
State of Ohio

My Commission Expires: February 5, 2024

25